

ALPINE PLANNING BOARD

Alpine Borough Hall
100 Church Street
Alpine, New Jersey 07620

MINUTES

November 26, 2019

CALL TO ORDER/PUBLIC ANNOUNCEMENT/PLEDGE OF ALLEGIANCE: The Planning Board, Borough of Alpine, convened in regular session on Tuesday, November 26, 2019 at 7:30 P.M. Catherine Parilla read the announcement in accordance with the requirements of the Sunshine Law:

In accordance with the provisions of the New Jersey Open Public Meetings Act, the notice of this regular meeting held Tuesday, November 26, 2019 at 7:30 P.M. has met the requirements of the law by publication in The Record, posting on the bulletin board of the lobby in the Borough Hall and filing in the office of the Borough Clerk.

ROLL CALL:

Members Present: Carol Cochi, Gayle Gerstein, Elizabeth Herries, , Lorraine Mattes, Catherine McGuire, Catherine Parilla, Joyce Sonpal, Mayor Paul Tomasko
Members Absent: David Kupferschmid, Alt I Jeff Fromm
Staff Present: Michael Kates, Board Attorney, Perry Frenzel, Borough Engineer
Marilyn Hayward, Board & Recording Secretary
John Phillips, Esq., Special Counsel regarding the Alpine Three matter
Gary Vander Veer, former Borough Engineer and Consultant re Alpine Three matter

OPEN TO THE PUBLIC FOR NON-AGENDA ITEMS: None

APPROVAL OF MINUTES OF OCTOBER 22, 2019 REGULAR MEETING:

Upon a motion by Ms. Cochi, seconded by Ms. McGuire, to approve the minutes of the October 22, 2019 Planning Board Regular Meeting. Eligible members voted as follows:

Vote: Ayes: Carol Cochi, Gayle Gerstein, Elizabeth Herries, Lorraine Mattes, Catherine McGuire, Catherine Parilla, Joyce Sonpal, Mayor Paul Tomasko **MOTION APPROVED**

RESOLUTION: RETURN OF ESCROW

Upon a motion by Ms. McGuire, seconded by Ms. Gerstein to return unused escrow as approved by the Board’s attorney and engineer:

Kurtz, David	Trust AC	\$ 1,158.45
Perez, Ramon & Mirna	Trust AC	\$ 733.90
Alpine Country Club	Trust AC	\$ 240.55

Vote: Ayes: Carol Cochi, Gayle Gerstein, Elizabeth Herries, Lorraine Mattes, Catherine McGuire, Catherine Parilla, Joyce Sonpal, Mayor Paul Tomasko **MOTION APPROVED**

ANNOUNCEMENT: Chairwoman Parilla advised they will deviate from the agenda to take care of routine business first, the new application which should be uncomplicated next and then the Alpine Three matter. As usual the Planning Board endeavors to end meetings by 10 PM.

BILLS AND CLAIMS: A motion to approve bills was made by Ms. Gerstein, seconded by Ms. Herries

John Philips	Alpine Three 43/6.01,6/02,6.03	Escrow	\$4,460.00
Huntington Bailey	COAH Legal	COAH	\$5,059.08
Burgis Associates	Alpine Three 43/6.01,6.02,6.03	Escrow	\$2,380.00
Burgis Associates	2015 Housing Plan	COAH	\$ 687.50
Clarke, Caton Hintz	COAH Court Master	COAH	\$ 128.18

Vote: Ayes: Carol Cochi, Gayle Gerstein, Elizabeth Herries, Lorraine Mattes, Catherine McGuire, Catherine Parilla, Joyce Sonpal, Mayor Paul Tomasko **MOTION APPROVED**

COMMUNICATIONS: noted and on file

- Borough of Tenafly Notice of Adoption of Historic Preservation Element of Master Plan
- Notice of Proposed Amendment to Northeast Water Quality Management Plan re: Block 50 Lots 1.01 and 1.02
- Notice of Application for Soil Erosion and Sediment Control Plan Certification re: Block 55 Lots 20 and 21
- Notice of Application for Soil Erosion and Sediment Control Plan Certification re: Alpine Three, LLC; Block 43 Lots 6.01, 6.02, 6.03.
- Notice of Application for Soil Erosion and Sediment Control Plan Certification re: Adoodi, Oded; Block 81.07 Lots 6 & 7.
- Notice of Application for Soil Erosion and Sediment Control Plan Certification re: Pike Stret, LLC; Block 49.01 Lot 8.
- Notice of Application for Soil Erosion and Sediment Control Plan Certification re: 12 Margo Way, LLC; Block 81.04 Lot 18.04
- Notice of NJDEP LOI Line verification re: 19 Rio Vista Dr., LLC; Block 20 Lot 8

COMMITTEE REPORTS:

Northern Valley Mayors & Planners Assoc.: Northern Valley Mayors and Planners received a presentation on the Greenway. Their next meeting is December 12th. Members are invited and, if so, should let the Mayor know.

Board of Health: No meeting

Environmental Commission: Chairwoman Mattes advised of a growing trend. Although trees are marked on site plans for protection with an orange silt fence around the drip line this is not being done in the field. The EC is then called back to properties to evaluate trees that died because heavy equipment drove over them and they were disturbed. This has occurred three times in the last three months. One property involved five trees in the buffer zone. They need better enforcement. If a site is not complying a stop work order should be issued until corrected. Borough Engineer Frenzel will follow up.

Building Department: Report is on file.

NJ Transit Update: No update.

COAH Update: No report.

NEW APPLICATION:

- **Soil Moving: Hillside 385 LLC/KO Group LLC; 385 Hillside Ave., Block 50 Lot 1.02**

Matthew G. Capizzi, Esq. 11 Hillside Ave., 2nd Floor, Tenafly, NJ 07670 appeared on behalf of 385 LLC/K.O. Group LLC owned by 375 Hillside, LLC c/o Jeff Kurtz, 270 Sylvan Avenue, Englewood Cliffs, NJ 07632 along with Robert J. Mueller, PLS of Hubschman Engineering, P.A. 263A South Washington Avenue, Bergenfield, NJ 07621.

The following exhibits were marked during the course of these proceedings:

A – 1 Colorized “Site Plan” dated October 14, 2019 last revised #1 November 5, 2019 annotated “*Per Borough Engineer’s Comments.*”

This is a soil moving application to move more than 1,000 cubic yards of soil for a lot created in 2018 as part of a five-lot subdivision split between Alpine and Demarest. Hubschman Engineering, P.A prepared the site plan and Noah Harris Adler, RA of Noah Harris Adler Architect, LLS 233 Whitman Street, Haworth, NJ 07641 prepared the architectural plans. The plans have been reviewed by Mr. Frenzel. There are no variances or waivers.

Bob Mueller was sworn and advised he also worked on the December 2018 subdivision which created two lots in Alpine (including the subject lot), two lots in Demarest and one lot that has property in both towns. He referred to a colorized version of his site plan marked **Exhibit A-1**. The property is 1.02 acres located on the northside of Hillside Avenue 249.33 feet west of Deerhill Road. Driveway access will be from Hillside Avenue. Soil moving volumes as follows: cut 3,188 cubic yards, fill 591 cubic yards, total export 2,597 cubic yards. Cuts are required for the driveway, house and pool in the back. Most soil is being removed from the easterly side to create the driveway and a level building pad. The

principal, Mr. Kurtz, owns three of the other lots and intends to spread the soil amongst the remaining lots. The drainage system captures water from the driveway and directs to a storm filter connecting to three seepage pits. Smaller drains in the rear will direct runoff to a seepage pit there. There is no septic system. They will tie into the sewer system in Academy Lane pending approval anticipated for January. There are no variances or waivers. This soil movement is typical. Mr. Frenzel agreed this is a clean application. They identified a few technical issues which have been addressed in the revised plan.

Attorney Kates asked Mr. Frenzel if all required revisions / supplements per his letter dated November 11, 2019 had been addressed. A few questions remain. The architectural plans show 860 feet of finished space within the attic; it is not defined space. What is the intended use? Attorney Capizzi will provide a plan detail. He also requested clarification of the architectural elevations to show the average proposed grade per item #4 on his list in his letter. Attorney Capizzi will make sure that is provided. Applicant stipulates to comply with all the conditions in Mr. Frenzel's letter.

Ms. Parilla questioned the attic space. Attorney Capizzi noted this is not a critical element. There are no septic systems and therefore no limitation on bedrooms but he will provide detail. Ms. McGuire questioned the smaller lots. Mr. Mueller clarified Lot 1.03 is actually an access strip to the Demarest lot in the back with a utility / sanitary sewer easement. Lot 3.01 in Alpine is not buildable but part of Demarest lot 29.02. Attorney Capizzi explained this is a separate tax lot as the owner will have to pay taxes to both towns. Ms. Mattes noted the lot is fairly flat. Why can't they build with the existing topography. Mr. Mueller explained the property slopes down from east to west. The eastern part of the lot is higher and they have a house that's almost 4,000 square feet. That alone will require a lot of soil excavation. He stated there's minimal grading in the rear. Ms. Cochi asked if lines on the plan indicate terracing on the east side. Mr. Mueller stated no, it will remain a slope. Ms. Mattes noted they propose removing a lot of trees. Mr. Frenzel noted the plan was modified to save two trees in the rear. Ms. Mattes noted a tree protection detail is shown on the plans and will need to be followed. Mayor Tomasko asked and Attorney Capizzi confirmed the house is being built on spec. Mayor Tomasko wished to point out they've maxed out building coverage and almost maxed out improved coverage. Any future requests for coverage relief will be difficult to justify. They should also consider the Alpine Swim Club versus expense of a pool. Ms. Herries noted a recent project designed at max returned for post construction relief for exceeding coverages per the final as-built. She cautioned they will need to be very careful during the construction period not to exceed what the plans state. Attorney Capizzi affirmed there are several checkpoints throughout the construction to assure compliance.

Chairwoman Parilla opened the meeting to the public. Andrew Schlesinger asked the plan be turned so the audience could see it. Mayor Tomasko explained this lot was part of the property that sought to construct an assisted living facility two years ago. Attorney Capizzi was one of five attorneys that appeared in opposition to that proposal over a year and a half ago that was subsequently withdrawn. This subdivision provides for five single family residences as opposed to that plan which was for 150 units on a five-acre lot.

Being no further comments, the session was closed to the public. Attorney Kates reviewed conditions including compliance with the Borough Engineer's November 11, 2019 list of required revisions / supplements.

Upon a motion by Ms. Herries, seconded by Ms. Gerstein to approve the soil moving application for Hillside 385, LLC/KO Group LLC subject to conditions as noted by Attorney Kates.

Vote: Ayes: Carol Cochi, Gayle Gerstein, Elizabeth Herries, Lorraine Mattes, Catherine McGuire, Catherine Parilla, Joyce Sonpal, Mayor Paul Tomasko **MOTION APPROVED**

- **Soil Moving: Their, Kelly; 3 Deerhill Rd., Block 50 Lot 1.01 (Carried to November 26, 2019)**

Chairwoman Parilla advised this matter will be carried to December 17, 2019 without need for further notice.

CONTINUED APPLICATION:

- **Amended Preliminary and Final Site Plan and Soil Moving: Alpine Three, LLC; Closter Dock Road, Block 43 Lots 6.01, 6.02 & 6.03 (Continued from October 22, 2019). Application for Extension of Preliminary Site Plan Approval submitted October 30, 2019 for consideration in conjunction with pending application**

Stenographer present at the request of the applicant. Attorney Hirsch to provide a copy of the transcript prior to the next hearing.

Special Council John Phillips sat for the Board due to his long history and familiarity with this applicant.

Mayor Tomasko recused and stepped down to the audience having received notice he owns property within 200 feet of the proposed sanitary sewer line which is part of this application.

Guliet D. Hirsch, Esq. of Archer Attorneys at Law 101 Carnegie Center, Suite 300, Princeton, NJ 08540 appeared on behalf of the Applicant, Alpine Three, LLC along with their architect, Raymond J. Virgona, R.A. of Virgona & Virgona Architects/Planners 125 River Road, Suite 201, Edgewater, NJ and Peter A. Ciliberto, Jr., P.E. of Najarian Associates, One Industrial Way West, Eatontown, NJ 07724.

Matthew G. Capizzi, Esq. 11 Hillside Ave., 2nd Floor, Tenafly, NJ 07670 appeared on behalf of Victoria Zoellner and Gordon Uehling. owners of Block 55, Lot 4 and Block 55 Lot 8.

Members of the public who spoke to the application: Andrew Schlesinger, Richard Incontro, John McCaffrey, Carolyn Park

Exhibits marked during the course of these proceedings:

Applicant:

- A – 11 Bergen County Soil Conservation letter dated October 25, 2019 re Stormwater Construction Activity 5G3 E-permit
- A – 12 NJDEP Temporary Authorization to Discharge 5G3 – Construction Activity Stormwater (GP) dated 11/20/2019
- A – 13 Bergen County Office of the County Counsel regarding Joint Report #SP 7356R3 dated November 20, 2019
- A – 14 NJSDEP National & Historic Resources Historic Preservation Office letter dated June 10, 2019 re LUR Permit No. 0202-05-0007.1
- A – 15 Architectural rendering not signed or sealed by Virgona & Virgona Architects/Planners dated April 29, 2019 SK-1 Elevations

Board:

- B – 3 Memorandum of Background Documents from Robert A. Kasuba, Esq. to the Alpine Planning Board dated April 2013 Regarding Alpine Three Development (formerly B-9 for 2012 application)
- B – 4 Order of Judgment (Amended) by Judge William C. Meehan, JSC dated January 20, 2015 re Docket No. BER-L-6794-13 Alpine Three LLC v. The Planning Board of the Borough of Alpine.
- B – 5 Court's Amended Decision by Judge William C. Meehan, JSC dated January 6, 2015 re Docket No. BER-L-6794-13 Alpine Three LLC v. The Planning Board of the Borough of Alpine.
- B – 6 Alpine Planning Board resolution dated August 29, 2013 in the Matter of the application of Alpine III, LLC for amended Preliminary Site Plan Approval with variance and for Soil Movement Permit with Waiver Block 43 Lots 6.01, 6.02 and 6.03 – 982 Closter Dock Road
- B – 7 Written opinion by Judge Anthony J. Sciuto, JSC dated September 22, 2019 re Duncan Shaw Assoc., Inc., et al v. Borough of Alpine, et al. Docket No. L-39211-86 P.W.
- B – 8 Civil Action Amended Order by Judge Peter Ciolino, AJSC dated November 14, 1990 re Borough of Alpine vs. (multiple)
- B – 9 Stormwater Expert Report by James F. Cosgrove, Jr., PE dated May 21, 2014 addressed to Judge Meehan re: Docket No. BER-L-6794-13
- B – 10 Letter from Cresskill Borough Attorney dated November 26, 2019 to Attorneys Phillips and Capizzi re: Alpine Three LLC / Borough of Cresskill Sewer Extension Agreement

Opposition:

- O-2 Letter from Matthew G. Capizzi, Esq. dated November 26, 2019

Attorney Phillips addressed administrative matters first:

Notice Issue Attorney Capizzi submitted a letter dated November 26, 2019 [**Exhibit O-2**] questioning jurisdiction based on applicant's failure to provide notice to the Borough of Cresskill. He felt this notice was vital as Applicant proposes tying into their sewer system via a manhole in Wilson Drive. It was not known if the manhole is within 200 feet of the Cresskill border but the infrastructure, albeit in an Alpine Road, belongs to Cresskill. Furthermore, Cresskill has been unable to verify receipt of a payment by the Applicant in 2005 required to consummate the sewer extension agreement which may render that agreement moot. Applicant stated they had an agreement with Cresskill at the October meeting and this should be verified prior to proceeding on that basis. Cresskill did not appear to know about this application until Attorney Capizzi's inquiry regarding the status of the agreement. Attorney Hirsch objected noting if she had been advised earlier than today their engineer could have provided a definite answer on the manhole location. She can do so prior to the next meeting. Attorney Capizzi maintained it was not his intent to "surprise" the Board or the Applicant but he had just noticed these issues while preparing for this evening's meeting and checking with Cresskill to verify Applicant's representation at the October meeting that the agreement was in effect.

Attorney Phillips stated he spoke earlier with Cresskill Borough Attorney Chris Diktas who believed the manhole was not within 200 feet of the border. Attorney Phillips acknowledged this statement is hearsay and therefore not admissible as part of the formal record. Attorney Diktas submitted a letter dated November 26, 2019 (**Exhibit B-10**) affirming their ongoing archive search for the payment. If it is determined the 2005 Agreement was not consummated, they are willing to meet with Alpine Three to negotiate a new sewer extension agreement. Attorney Phillips reminded any action by the Alpine Planning Board would be subject to proof of an agreement to allow the sewer connection. That issue involves the Applicant and the Borough of Cresskill and the Borough of Alpine similar to any other interlocal sewer service agreement. It is not an issue to delay this hearing. Based on the hearsay evidence from the Cresskill Borough attorney that this manhole is not within two hundred feet, Attorney Phillips advised the Board can continue to hear the application and Attorney Hirsch has the right to adjourn to seek additional notice or to continue; it is the Applicant's risk if they're wrong.

Attorney Hirsch asked they not start every hearing with an objection to notice. Attorney Capizzi responded he has an obligation to advise of any issues on the record or else a court would deem them waived. Attorney Phillips agreed he cannot object to Attorney Capizzi placing his issues on the record. Chairwoman Parilla clarified for Attorney Capizzi that his objections have been noted for the public record and assured any approval will be subject to conditions.

Additional Board Exhibits Attorney Phillips entered Board exhibits B3 – B10 into the record (as noted above) for purposes of historical background and completeness of the record. **Exhibit B-3** contains a historical analysis and background documents provided at the 2012 hearing. Two of the documents were provided as part of the Applicant's exhibits but are included here for completeness. **Exhibits B-4** and **B-5** are Judge Meehan's initial and amended 2015 decisions. **Exhibit B-6** is the Board's August 29, 2013 resolution regarding the 2012 application. **Exhibit B-7** is Judge Sciotto's 1988 opinion regarding the vacation of Schoolhouse Lane and the spring. **Exhibit B-8** is an amended order entered in the condemnation action in regard to courses of Schoolhouse Lane for purposes of showing the defendants in that case and the properties that were actually acquired by the Borough which does not include the corner of the Applicant's property. There was a question at the last series of hearings whether the corner of Lot 6.01 was taken by condemnation. Apparently, the Borough had expressed an interest in taking it and then abandoned that. This shows that under the final word of judgment that property was not included and that clears up the title issues. The Borough also acknowledged in the amended settlement agreement that property was not taken. **Exhibit B-9** is the James Cosgrove report. He was the court appointed stormwater expert and this report was submitted in accordance with the Judge's order of January 13, 2014. **Exhibit B-10** is the letter from Cresskill's Attorney Diktas dated November 26, 2019 indicating they're looking for the 2005 sewer agreement payment. Attorney Hirsch objected to Exhibit B-9 being part of the record without Mr. Cosgrove being available to testify noting he did not testify on the record in court or at any prior hearings. Attorney Phillips opined there will be testimony regarding the issues set forth in that report. For clarity it will remain marked for identification purposes.

Notice Re Soil Moving Attorney Phillips pointed out Applicant's notice seeks a waiver from soil movement regulations but did not submit a soil moving application. They cannot consider a waiver that is not before the Board. Do they wish to withdraw the waiver or amend the application? Attorney Hirsch stated they will withdraw at this time and perhaps if the application proceeds to a certain point they may file it so the Board can consider that also. Attorney Capizzi objected as

this speaks to completeness. Attorney Hirsch objected to Attorney Capizzi's constant interjections. Attorney Phillips maintained like anyone from the public Attorney Capizzi has a right to raise objections. The Board will proceed.

Attorney Hirsch entered Applicant exhibits A-11 – A-15 into the record (as noted above). **Exhibits A-11** and **A-12** are recent approvals for stormwater construction activity. **Exhibit A-13** is Bergen County's approval with all their standard and specific conditions and their standard form of Developers Agreement. **Exhibit A-14** is a letter dated June 10, 2019 from the NJSDEP Historic Preservation office which may already be in the record but is again included here.

At this time the Board called for a break and adjourned from 8:23 – 8:36 PM.

Attorney Hirsch requested a copy of **Exhibit B-10** which was provided. She advised Michael Hubschman was to have provided testimony regarding the sewer line this evening but had an unavoidable commitment. It is anticipated he will be at the next hearing. She will proceed with their architect and if time permits, their stormwater management expert.

Raymond J. Virgona, R.A. was sworn. Mr. Virgona testified to his credentials.¹ He testified on the prior application and was accepted by the Board. Mr. Virgona has been involved with this project since 1995. He prepared a set of architectural plans entitled "Proposed Townhouses" dated April 29, 2019 as submitted with the application. He is aware of the approval granted by the NJDEP State Historic Preservation Office (**Exhibit A-14**) based on these plans re-submitted to reflect slight grading changes and the increase from five to seven units. SHPO's concern would essentially be the elevations along Closter Dock Road which have not changed. A colored rendering of the Elevations Sheet SK-1 was marked **Exhibit A-15**. This sheet depicts three elevations. At the top are elevations of the east and the west buildings as viewed from Closter Dock Road. The design is traditional gothic revival style with steeply pitched roofs, cast stone trim and windows and wooden entryways. There will be a total of three buildings on site. On the sheet middle is the west building as viewed from the driveway (3 units). At the bottom of the sheet is the type of building (there will be two) proposed for the east side (two units each). Garages are shown and building heights identified. He referred to pages SK-2 and SK-3 (not rendered but included with the application) to depict elevations of the third building not shown on SK-1 and the floor plans for the three types of units A, B and C. In response to Board questions, Mr. Virgona clarified these are two story buildings with basements and attics but not a third story. None have walkout basements. Each unit will have an elevator and a two-car garage. The Board noted elevators are not depicted on SK-3. Mr. Virgona acknowledged there have been different versions of these plans over the years.

Attorney Hirsch recalled a question from the prior hearing as to whether the units could be retrofitted for a handicapped person and comply with the American Disabilities Act. Mr. Virgona replied that townhouses are exempt from ADA requirements. Public portions of private developments such as club houses would have to be ADA accessible but not the individual units. They do propose elevators but have no obligation to do so. Some units are accessible from ground level without steps. The west B and C units have some exterior steps but would be elevator accessible from the garage. He opined a handicapped person could probably function in any of the units.

Attorney Hirsch noted the zoning schedule limits the height of the buildings to thirty-five feet and read the definition into the record:

"The vertical distance measured from the average original grade or the average finished grade of the proposed building, whichever is lower, to the highest point of the roof if the roof is flat or to a point that is half the distance between the plates and the top of the ridge beam in the case of sloping roofs."

Mr. Virgona acknowledged he is familiar with the ordinance and worked with Mr. Hubschman to coordinate the site and architectural plans. He pointed out the building heights and average grades and midpoints as noted on his plans and used in the calculations to demonstrate compliance.

¹ Mr. Virgona is a registered architect and licensed planner in the state of New Jersey for over forty years (practicing since 1976). He also has a Connecticut license. He has testified before 80+ boards. He designs buildings throughout the state including homes in Alpine and throughout Bergen County. He has designed 4,000 apartment units.

Opened to the Board for questions.

Location of a building atop the spring. Chairwoman Parilla questioned if Mr. Virgona is concerned with subsurface conditions and the proposed location of one of the buildings over the spring. Mr. Virgona responded that is always a consideration as you don't want to design a building that will have problems later. The solution lies with the engineering. Chairwoman asked if during the design phase he was made aware that he was building directly atop the spring. Mr. Virgona stated he was aware but the information provided indicated it was possible to correct. He does not know the details or what the engineering solution is. Chairwoman Parilla asked if that then meant he designed the building locations to make what he felt was the best use of the land to fit in seven units and that just happened to be where it fell. Mr. Virgona replied yes, to meet the setback requirements.

Guest Parking. Ms. Gerstein questioned and Mr. Virgona replied there are two spaces in each garage and two spaces in each driveway and there are four additional parking spaces on site for guests. This complies with and actually exceeds NJ Residential Site Improvement Standards.

Building Height. Ms. Sonpal questioned and Mr. Virgona clarified the ordinance provides for 35 feet to the midpoint. He did not calculate the height at peak which varies. He estimated five to seven feet more which is typical of Alpine homes.

Entrances and views. Chairwoman Parilla questioned and Mr. Virgona clarified the Closter Dock Road streetscape will be viewed as door entrances to Unit B on the west and Unit A on the east. All garages face the common driveway. Only middle unit C has an entrance facing the driveway. Remaining unit entrances are at the ends. Views from Schoolhouse Lane will be similar to the views from Closter Dock Road.

Third Story. Ms. Cochi questioned mention of handicapped access via a basement garage to question if units have a third story. Mr. Virgona responded Unit C is the only unit where you would enter at basement level. All others enter via the first floor. It is only that unit's garage door which can be seen at the basement level not the other side of the building. Attorney Hirsch clarified that this particular zone (COAH-1) does not regulate height by stories but only by the definition. Mr. Virgona reminded height is based on average grades to the midpoint of steeply pitched roofs and not to the peak.

Board Engineer Questions

ADA. Mr. Frenzel recalled Mr. Virgona's testimony that townhouses were not subject to ADA regulations and the provision of elevators provided handicapped access to state ADA accessibility in residential units goes beyond that with handicapped bathrooms, passageways, etc. Are the units designed in such a way that the units themselves would be wheelchair accessible or would that require almost a total gut and renovation. Mr. Virgona opined while the units are generous in size and scale they have not fine-tuned the design to that level. For example a powder room might not be accessible. He felt a handicapped person could function in the space. He noted technically the elevator would not be of a size to meet ADA standards but from a practical standpoint they could work. He was asked if the elevator would accommodate someone in a wheelchair with a person behind them. Mr. Virgona said it would but it's not an ADA compliant elevator.

Parking. Mr. Frenzel noted one of the four guest spaces is reserved for handicapped use reducing the number of available visitor spaces. Mr. Virgona affirmed. Mr. Frenzel asked if the travel path from that space to the units complies with the ADA slope requirements. Mr. Virgona believed it does but deferred to their engineer.

Groundwater Conditions. Mr. Frenzel asked if Mr. Virgona was aware of any unusual groundwater conditions on site that would impact his design particularly basement areas, crawl spaces, waterproofing, etc. Mr. Virgona responded obviously the spring is a factor that has to be dealt with from an engineering standpoint. He has been assured that can be done. Mr. Frenzel asked what happens to the development if there is not a viable way to manage the spring within the confines of the unit footprint. Mr. Virgona supposed they could eliminate the basement in that unit if required. Mr. Frenzel asked what happens if there is no alternative but to leave the spring free flowing as it is currently. Mr. Virgona noted this is an engineering issue. It would affect the architecture. He assumes there would be a pipe system to allow the flow. Ms. Gerstein asked if they could eliminate that building reducing the number of units to six. Attorney Hirsch interjected that is not a question for Mr. Virgona and Mr. Frenzel's question presupposes assumptions that have not yet been entered into the record. They have two engineers that will hopefully clarify this issue. Chairwoman Parilla persisted if Mr. Virgona had issues with

designing a building over a feature that could bubble up into the basement. Mr. Virgona maintained the issue will be dealt with in some fashion and although a basement is a desirable feature if necessary they could eliminate it for that one unit. The living space is not affected and it won't erode the foundation. Chairwoman Parilla questioned sinking. Mr. Virgona responded no, structural design and civil engineering will take care of that.

Fire Rating. Ms. Cochi noted units have shared walls and ask what the fire rating is. Mr. Virgona responded two hours; they're double walls. Ms. Cochi expressed concern with the ease of getting fire trucks into the site. Attorney Hirsch advised the relevant question is whether the design complies with the state fire code and Mr. Virgona affirmed they will comply with or exceed the State requirements.

Opened to the Public for questions. Several times during the public course the Board Attorney and Chair reminded at this time they should only be questioning the architect. A time for questions to Applicant's engineer will come later.

Attorney Capizzi asked how the main force main proposed played into the design? Mr. Virgona stated there was no difference in terms of the building design. He gave general information regarding the force main deferring specific design questions to the engineer. If the force main were not an option they would obviously have to come up with a plan for discharge, either septic systems or something else. Chairwoman Parilla asked if Mr. Virgona had designed the plan for five units with septic systems. Mr. Virgona recalled one of the units in that design had only a partial basement due to proximity to a proposed septic field. Attorney Hirsch affirmed a five-unit plan was submitted [for septic feasibility] but never made it to public hearing. He was not involved in the attempts at a feasible septic design and could not comment as to the now proposed building design in relation to the where those attempted septic excavations were. Attorney Capizzi rephrased to ask if all units have basements. Mr. Virgona replied yes.

Andrew Schlesinger, 17 Haring Lane asked if Applicant's counsel and experts live in Alpine. Attorney Hirsch stated she does not and questioned how that relates to the architect's testimony. Mr. Schlesinger questioned if the lot coverage exemption was legally mandated by Mount Laurel. Attorney Phillips explained the zoning ordinance for this property allows a maximum of seven units and a building coverage of 30%. As discussed at the last hearing, lot coverage was inadvertently put into an amendment resolution. You can't amend an ordinance by resolution so lot coverage is not part of this application and the applicant is entitled to this technical variance. Mr. Schlesinger questioned blasting. Attorney Hirsch did not believe so and deferred questions regarding slopes, tree removal, the spring, stormwater management were deferred to the engineer and landscape architect. Attorney Phillips advised Mr. Schlesinger he can provide exhibits (photos, videos) and testify under oath during the public comment portion of the case which comes at the end of the hearing. Counsel may object but he has the right to present.

Richard Incontro, 36 Schoolhouse Lane asked questions to elicit what the views will be from Schoolhouse Lane. Mr. Virgona noted the view of the buildings will be similar to the elevations shown on Closter Dock Road. The entrance is on the end. The garages are around the corner facing the common driveway. Residents enter the main entrance via a walkway that leads from the driveway or an access within the garage. The east building is about fifty plus feet wide. Mr. Incontro questioned adequate egress within the building for fire safety. Mr. Virgona's testimony indicated the design meets fire safety codes; he thinks it's perfectly safe. Questions regarding the relationship of the building elevation and setback relative to Schoolhouse Lane or to isolated wetlands or the spring on the property or the NJLOI were deferred to the engineer and his site plan. Mr. Virgona did note that all of the units have basements with eight-foot ceiling and the amount of basement that is below ground varies from unit to unit.

Ted Noback, 57 Schoolhouse Lane noted the architectural renderings omitted the elevation or view from Schoolhouse Lane. What will it look like with the wall and the fence and the buildings on top? Attorney Hirsch deferred to the engineer as the architect only deals with the buildings and not the other site improvements.

Andrew Schlesinger also asked for a rendering of that full view. Mr. Frenzel concurred the submission did not include anything that shows the combination of the wall and the fence and the house. Chairwoman Parilla requested same. Attorney Hirsch clarified this is an overlap between professionals and asked how such an elevation would be informative as to whether the proposed design conforms with the requirements of your ordinance which does not regulate architectural standards. Attorney Phillips reminded Applicant seeks waiver for the height of wall and fence. Attorney Hirsch agreed to provide that detail. Attorney Phillips continued that during the prior application, the applicant agreed to a condition to provide an architectural treatment for the wall so this feature would not look like a blank piece of concrete. Attorney

Hirsch noted conditions are not imposed with a denial which that application was; however, they will look at this. Mr. Frenzel clarified his understanding the neighbors are seeking a combined elevation drawing that shows the wall, the fence and the buildings so they can see what it looks like from Schoolhouse Lane. Board members concurred. Attorney Hirsch agreed to have the architect and engineer collaborate to provide a view and to try and make the wall look a little better with the proviso that this is not regulatory but just to illustrate what it will look like.

Attorney Capizzi interjected such a view would not just be for illustrative purposes as relates to requested waivers from the soil moving ordinance as clearly a cross section detail would be pertinent to that consideration. The neighbors are clearly expressing concern with the distance from Schoolhouse Lane and need information regarding the cut and fill proposed along Schoolhouse Lane.

John McCaffrey, 974 Closter Dock Road owns the property to the west. He is concerned with the grades, elevations and setbacks of the project particularly on his side. Deferred to the engineer. He asked they provide an architectural rendering from his side.

Closed to the Public for Questions of the Architect

Attorney Phillips requested **Exhibit A-15** be retained and preserved by the Board.

Peter Ciliberto, Jr. P.E. was sworn and having not appeared before this Board presented his credentials.² Mr. Ciliberto was involved in the site plan for Alpine Three and, jointly with Michael Hubschman, P.E., prepared and signed the Stormwater Management (Drainage) Report (Revised: May 22, 2019) submitted with the application. Attorney Hirsch asked him to provide an overview of the stormwater management design for this site plan. Mr. Ciliberto referred to Drawing No. 495-48 sheet 9 of 11 “Existing Conditions Plan; Trees to Be Removed Plan” last revised October 7, 2019 as submitted supplemental to the application. The site drains from the northeast corner along Closter Dock Road towards a ditch that runs along Schoolhouse Lane, a gravel roadway. The ditch flows from southeast to northwest adjacent to Block 41 Lot 3 where it is picked up by a twelve-inch RCP (reinforced concrete pipe) that directs the flow across the Lane and discharges into another ditch that runs along the rear of the municipal parking lot. They propose measures to reduce flows from the pre-development condition to that point of discharge. The plan prepared is compliant with Alpine and NJDEP stormwater management regulations. These regulations address five major areas: erosion control, quantity control, quality control, recharge and nonstructural stormwater management strategies.

- **Erosion control** was addressed by application to the Bergen County Soil Conservation District and they have received certification that the plan meets their requirements.
- **Quantity control** and peak flow attenuation. They are required to control a two-year storm to 50% of predevelopment, a ten-year storm to 75% and a hundred-year storm to 80%. To do this they provide a sealed underground detention basin shown on Drawing No. 395-42 sheet 3 of 11 “Grading, Drainage & Utility Plan” last revised October 7, 2019 (submitted supplemental to the application) in the western corner of the site adjacent to Unit #6 and Schoolhouse Lane. This detention basin is composed of five rows of 42-inch pipes providing about 280 linear feet of pipe. A manifold system on either end ties the whole system together and at the far corner of one manifold is an outlet control structure to regulate flow from the detention basin into the existing 12-inch RCP pipe that crosses Schoolhouse Lane. He did not have the predevelopment calculations readily available but testified the peak flows will be less and they meet both state and local requirements.
- **Stormwater quality control** requires they remove 80% of total suspended solids (TSS). To do this they provide a storm filter by contact which device, certified by NJDEP to remove 80% TSS, is located by the end of the driveway and detention basin just before Schoolhouse Lane. All runoff from individual and common driveways will be directed to the storm filter for cleaning and these are the only surfaces for which TSS removal is required. This is not required for roofs and sidewalks which don’t generate pollutant loads. They are compliant.

² Mr. Ciliberto is a Professional Engineer licensed in NJ for 25 years. Also licensed in PA and NY. Has performed site plan and subdivision designs for the past 30 years and has appeared before numerous Boards in Bergen County including Montvale, Woodcliff Lake, Parsippany Troy Hills where he was accepted as an expert in the field of site plan engineering.

- **Ground water recharge.** The site plan provides two underground systems for collection of rooftop runoff where it can then infiltrate into the ground, the sum of which meets the state and local requirements. This water is considered clean and there is no need to pretreat.
 - Area A is located between Unit #3 and Unit #5 and collects runoff from parts or all of Unit #1, #2, #3, #4 and #5. The recharge area is about 377 square feet with an effective depth of about 25 inches. Their test pit indicated groundwater at elevation 427 feet with the chamber bed bottom at 429.5 feet providing more than the required two feet above ground water level at that location. The soil in that bed has a percolation rate of six inches per hour and a design rate of three inches per hour meaning complete infiltration would occur in about nine hours exceeding the 72-hour requirement set by state and local regulations.
 - Area B is located above the detention basin behind Unit #6 and collects runoff from parts of Units #2, #4 and #6. The recharge area is about 155 square feet with an effective depth of about 25 inches. Their test pit indicated groundwater at about 419.5 feet with the chamber bed bottom at about 424 providing about four feet; also more than the two-foot requirement. As the soil in that area is being replaced by the gravel bed for the detention basin they assume a percolation rate of six inches per hour and a design rate of three inches per hour meaning complete infiltration would occur in about eight hours also meeting the criteria.
- **Nonstructural stormwater management strategies** is evaluated using NJDEP's nonstructural point strategy system (Excel spreadsheet format) to demonstrate that the site adequately addresses the low impact standards to the maximum extent practicable. Referring to Drawing No. 495-48 sheet 9 of 11 "Existing Conditions Plan," they first analyze existing conditions taking into account various land use coverages and soils and input information to calculate the existing points ratio. This site had 323 points for existing conditions. They repeat the process using the post-development plan including other factors and a different points ratio. Points ratio is based on site area (about one acre) and their location (Metropolitan Planning Area) which equaled 65% meaning they only have to come up with 65% of the existing condition or 210 points. The program also looks at the impervious coverages and how they are connected, soil disturbance, conveyance system, and soil compaction to reach that calculation. They have 210 points which meets the requirement.

Nonstructural strategies utilized included minimizing impervious coverage to the maximum extent practicable by keeping driveway size and number of parking spaces to the minimum required and constructing them with porous pavement as depicted on Drawing No. 395-11 sheet 2 of 11 "Site Plan" last revised October 7, 2019. Vegetative swales are proposed in the rear yard areas. Site disturbance will be restricted during construction in accordance with the Soil Erosion Sediment Control Plans. The site is within hydrologic soil group C which NJDEP likes. C and D don't provide a lot of recharge and NJDEP likes those sites to be developed because you're not losing a whole lot of recharge capabilities in those soils. Inlets have Type N-Eco curb pieces and outlets have trash racks. A Homeowners Association will be created to maintain the site and care for vegetation. These are all things that NJDEP considers as low impact development requirements.

Attorney Hirsch advised this concludes the stormwater management testimony but noting the late hour Mr. Ciliberto will be returning to address other engineering issues. Chairwoman Parilla called for fifteen minutes of public questions while testimony is fresh in their minds noting the Board will reserve their questions for the next meeting. Attorney Hirsch requested questions only address only tonight's testimony and not drift into future engineering topics such as the spring.

Richard Incontro asked for the definitions of a two-year, five-year and hundred-year storm. Mr. Ciliberto explained a two-, ten- and hundred-year storm is a 24 hour duration storm and that's the storm typically used in the state for design of stormwater management systems. For example a two year storm comes about once every two years; not an everyday storm. Mr. Incontro rephrased to ask the two-year definition by percentage and sought to correct Mr. Ciliberto that the figure is 1% or 3.65 times a year. Vs. 0.1% or once a year. Mr. Incontro questioned total volume capacity of the detention basin and the volume of one inch of rainfall over an acre. Mr. Ciliberto didn't know but can get that information.

John McCaffrey questioned if the DuBois spring and tributary were shown on the applications and topo surveys submitted to Bergen County Soil Conservation. Mr. Ciliberto stated they were sent the same set of plans and stormwater management report presented to the Board and are aware of the flow rate provided by Engineer Hubschman.

Andrew Schlesinger questioned Mr. Ciliberto's personal experience with the site and requested more details regarding the stormwater management system relative to the ditch or stream and current issues he's observed with downhill flooding towards Haring Lane and flows relative to DuBois Avenue. Mr. Ciliberto advised the plan utilizes gravity; no electric pumps. Neither he nor anyone from his firm has personally made observations of current stormwater runoff on the property or along the discharge path to the south all the way down to Haring Lane during either a mild or severe rain. He has seen video of flow down Schoolhouse Lane where it cuts across some properties before reaching the ditch along the municipal boundary line. Stormwater runoff will be diverted through their system to ditch that runs behind the municipal building eventually reaching storm drains in Haring Lane. They are changing onsite flow. Where water currently flows off the property all along Schoolhouse Lane into the ditch it will now be collected in their detention basin and directed to the 12 inch pipe and flow as it always has. The spreadsheet used for calculations was created by NJDEP and all of the data entered is theoretical and not based on actual observations. This is the way it's usually done. Runoff will decrease. For example, they can only release 50% of the predevelopment stormwater runoff for a two-year storm so, not the measurement but just for illustration purposes, if you released 4 CFS (cubic feet per second) before you can only release 2 CFS now and they have to store the other 2 CFS site on site. That water eventually leaves, too, but the peak flow can only be 2 CFS. In his opinion the existing 12-inch CRP pipe under Schoolhouse Lane will have plenty of capacity. Regarding flows from DuBois Avenue he is aware water from the adjacent property comes onto their site. Some of the flow will be collected and directed toward their detention basin. Wind does affect water flow. Water flows downhill. They use inlets to capture water and direct it to the detention basin. The water will be contained in the piping that fits into the ten foot offset between the wall and the driveway or building entrances. Questions regarding blasting and topography were deferred to Engineer Hubschman

Carolyn Park, 30 Schoolhouse Lane stated she doesn't understand the explanation, drawings and numbers and asked what happens if their system fails. Mr. Ciliberto noted if the system clogged up that would be a maintenance issue. The Board asked her to reserve comments and come back to the next meeting.

Attorney Phillips advised the Board will carry this matter to December 17, 2019 at 7:30 pm in this location. In the event of inclement weather or other emergency requiring cancellation of that meeting this matter will be carried to the next regular meeting scheduled for January 28, 2020 at 7: 30 PM with no further notice required. Attorney Hirsch affirmed per MLUL applicant agrees to extend time by forty-eight hours through whichever hearing date comes next.

Attorney Capizzi reserved his right to cross examine Mr. Ciliberto whenever he completes his testimony. He requests if the Applicant submits any revised or supplemental materials that they be provided ten days in advance of the next hearing date. Chairwoman Parilla advised Attorney Capizzi to submit any correspondence he wishes the Board to consider at least forty-eight hours in advance and not the day of the meeting.

Resolution of Continuance: Upon a motion by Ms. Gerstein, seconded by Ms. Herries and approved by all to continue this matter to the next regular meeting scheduled for Tuesday, December 17, 2019 with no further notice required.

ADJOURNMENT: A motion to adjourn the regular Planning Board meeting was made by Ms. Gerstein and seconded by Ms. Herries. All were in favor. The meeting adjourned at 10:21 PM.

Respectfully submitted,

Marilyn Hayward
Recording Secretary