

## ALPINE PLANNING BOARD

Alpine Borough Hall  
100 Church Street  
Alpine, New Jersey 07620

### MINUTES

July 28, 2020

**CALL TO ORDER/PUBLIC ANNOUNCEMENT/PLEDGE OF ALLEGIANCE:** The Planning Board, Borough of Alpine, convened in regular session on Tuesday, July 28, 2020 at 7:35 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 of the Alpine Planning Board held July 28, 2020 has met the requirements of the law by being published as part of the annual meeting notice in The Record and posted continuously on the bulletin board of the lobby in the Borough Hall and a copy filed in the office of the Borough Clerk.

### **ROLL CALL:**

Members Present: Carol Cochi, Gayle Gerstein, Elizabeth Herries, David Kupferschmid, Catherine McGuire, Lorraine Mattes, Catherine Parilla, Joyce Sonpal, Mayor Paul Tomasko  
Staff Present: Perry Frenzel, Borough Engineer, Marilyn Hayward, Board & Recording Secretary  
John Phillips, Special Counsel

**Announcement:** Attorney Phillips advised an individual has insisted on attending this meeting despite stating they have symptoms of COVID-19, went for a test but does not yet have a result. This individual was advised this is not the last hearing on this application, that he would be provided with a transcript and would have an opportunity to cross-examine any witnesses at a future meeting but steadfastly refuses to NOT attend. This person is sitting in the back of the room. This is disrespectful of fellow citizens. Following discussion with the police and the health officer we are not in a position to require this person to leave. This person is required (like all attendees) to wear a mask at all times and maintain six feet social distancing. If this person violates either of those requirements, they will be violating the Governor's Executive Orders and will be removed.

**PUBLIC COMMENT NON-AGENDA ITEMS:** No comments.

### **APPROVAL OF MINUTES OF JUNE 23, 2020 REGULAR MEETING:**

Upon a motion by Ms. Gerstein, seconded by Ms. Cochi to approve the minutes of the June 23, 2020 Planning Board Regular Meeting. Eligible members voted as follows: Vote: Ayes: Ms. Cochi, Ms. Gerstein, Ms. Herries, Mr. Kupferschmid, Ms. McGuire, Ms. Mattes, Ms. Parilla, Ms. Sonpal, Mayor Tomasko

### **HEARINGS: AMENDED PRELIMINARY AND FINAL SITE PLAN AND SOIL MOVING WITH WAIVERS; ALPINE THREE, LLC; CLOSTER DOCK ROAD, Block 43 lots 6.01, 6.02 & 6.03 (carried to July 28, 2020)**

Stenographer present at the request of the applicant. Transcript to be provided. Mayor Tomasko recused.

In addition to Attorney Phillips present for the Board on this matter are Planner Edward Snieckus from Burgis Associates and Special Engineer Gary Vander Veer.

Guliet D. Hirsch, Esq. appeared on behalf of the Applicant, Alpine Three, LLC along with applicant's Engineer Michael J. Hubschman, PE, PP of Hubschman Engineering, P.A.

Members of the public who spoke to the application: Richard Incontro, JohnMcCaffrey, and Matthew G. Capizzi, Esq. 11 Hillside Ave., 2<sup>nd</sup> Floor, Tenafly, NJ 07670 who appeared on behalf of Victoria Zoellner and Gordon Uehling, owners of Block 55, Lot 4 and Block 55 Lot 8.

Exhibits marked during the course of these proceedings:

**A – 24** Affidavit of Service and Publication from Guliet D. Hirsch dated July 10, 2020.

**O – 5** Letter from Matthew Capizzi to the Planning Board dated July 27, 2020

Attorney Phillips reviewed:

1. Matter was heard in February and carried to March with no further notice required. In case of an emergency cancellation it would be carried to the next available public meeting. This applied through April and May due to pandemic. At the Board's in-person meeting in June the matter was again carried with no further notice required to tonight. Applicant provided a new proof of publication and affidavit of public service rendering notice issue moot. Affirmed Attorney Capizzi's prior objections to the original notice and jurisdiction are preserved and same objections apply to new notice and part of the record. Hearing to proceed.
2. Applicant has requested that the Board extend the Preliminary Approval granted in 2003 or 2005 (depending on which Court decision you recognize) and then grant Final Approval. For a number of reasons Attorney Phillips will recommend the Board not grant the preliminary extensions and they could not grant the final in any event. It is unclear what they would be extending. Judge Harris's order stated the site plan as submitted was approved subject to certain conditions including NJDEP approval in regard to the sewer. The NJDEP issued a directive as a condition of their approval that the stormwater management had to be brought up to the then new state standards. That required an almost total redesign of the stormwater management system. He is not sure what has been preserved from the original application.

More importantly, Preliminary Approval grants the Applicant certain rights. Under the now current Time of Application Rule it grants the Applicant protection from changes in zoning ordinance, with the exception of a public health and safety ordinance, for a period of three years and that can be extended for an additional one-year period twice and then you can apply for Final Approval if it is appropriate. With the Permit Extension Act the Applicant could in fact shoehorn the 2003 application up until last year when the request for extension was filed. However, though there have been no changes in the municipal zoning ordinance, there has been a passage of time of 15 to 17 years and a complete change in the Board membership so if the applicant is denied they have not suffered any harm whatsoever. The zoning ordinance has not changed with the exception of the public safety ordinance requiring alignment with Main Street and the driveway. That could be done whether they had an extension or not.

Final Approval is granted when the plans and the application are in such a condition that basically the project can be built. In this case, they are asking for Final Approval on a site plan that required a complete modification of the stormwater management system. Thus, it will be his recommendation at the appropriate time not to grant those two extensions.

3. The notice itself includes a request for variance for something that was just found by the Board Engineers and that is the encroachment of the decks into the side yards. He did not understand how this was not detected before so he went back to the resolutions the Board adopted pursuant to Judge Harris's direction contained in previously marked Exhibits B-3, 2 and 5. The first is a resolution dated April 23, 2003 and the second dated December 16, 2003. Both make reference to a letter dated May 14, 2002 from the then Board Attorney who advised the applicant that no variance relief would be required for these decks since they are not proposed to be covered porches or covered terraces within the zoning ordinance. That is an interpretation that was accepted by the Board and included in two separate resolutions. Earlier on in this application there were questions raised about the doctrine of *res judicata* which means the matter has been decided and it applies. There is a more limited doctrine that is called *the law of the case* which basically means if you made a decision in an ongoing matter and it was a decision that was relied upon it stays in effect until the matter is concluded. He believes the Attorney's letter of 2002 determining a variance was not required is in fact a *law of the case* and the Board does not have to deal with the variance request. The Applicant has the right to move forward with various proofs if she chooses to do so but this is like the lot coverage issue discussed previously.

4. The MLUL (Municipal Land Use Law) deals with amendments saying if there is an application pending and the Board requires significant or substantial changes the Applicant must file an Amended Site Plan Application and must re-notice. Having reviewed the law, he is not sure whether this should be called a Preliminary Application or an Amended Preliminary Application. There's no difference in the result and he will leave that to the engineers to work out. Technically it is amended because it is not the one that was originally filed therefore it may be better to call it "amended" in order to make that distinction but it has no effect on approval or non-approval.
5. A question was raised by the Board's engineer regarding the offsite sewer. Judge Harris's decision in 2003 or 2005 was that the Applicant was entitled to apply for an offsite sewer. Attorney Phillips previously advised the Board they do not have jurisdiction over the offsite improvement other than to look and make sure that it is technically or engineeringly feasible at least conceptually. There are a lot of hurdles. There are engineering questions raised regarding issues including pipe size and utility crossings. There are also legal questions as to whether the Applicant can traverse rights-of-way to get to where they need to go but that is for the Mayor and Council and not the Planning Board. The Planning Board is just reviewing if technically the offsite improvement can be constructed if all those other conditions are satisfied. During their examination the Planning Board will compile a list of conditions for recommendation to the Mayor and Council (and County of Bergen) for their review including compensation, right-of-way rights, differences in rights between property owners?, how will they handle utility crossings?, will they grant a waiver for the location of the sewer line and manholes?, etc.
6. The Applicant has requested a number of waivers: fence post/fence height (which may not be a waiver) and onsite location of sewer line and manholes. If the Board does not grant those it will not be a basis for denying the application. If they don't like the waiver request and the application is otherwise approvable, the Board must approve but may condition upon the plans being revised to remove those waivers from the plans.

Attorney Hirsch responded:

- They rely on documents previously submitted regarding extending approvals granted by Judge Harris.
- Attorney Hirsch offered corrective terminology for approval of the sewer line that rather than terming it "technically feasible" which could be construed to be open-ended, the standard should more accurately be "whether it complies with the design standards contained in the RSIS [Residential Site Improvement Standards] for sanitary sewer lines and mains."

Attorney Capizzi asked if he could ask a procedural question. Chairwoman Parilla asked he defer to later.

Exhibit marked during the course of these proceedings:

**A – 24** Affidavit of Service and Publication from Guliet D. Hirsch dated July 10, 2020.

Attorney Hirsch thanked the Board and Borough personnel for efforts made arranging this meeting. She confirmed for the record everyone is wearing masks and social distancing. She asked the Board to consider virtual meetings in future.

Applicant's engineer Michael Hubschman was present to testify regarding revisions in the new set of plans submitted June 2, 2020. Attorney Phillips reminded he remains under oath. Attorney Capizzi objected that not everyone could see the plans to follow through. Attorney Hirsch agreed they needed to find a means of accommodation. Attorney Phillips suggested Mr. Hubschman be very detailed in his description. In addition, Mr. Hubschman held up plans for viewing as instructed by the Board Chair. Mr. Hubschman referenced his plan set Revision 2 dated April 30, 2020 amended to address comments from Borough engineers Mr. Vander Veer and Mr. Frenzel via their February and March letters.

- **Fire Code Compliance (Turnaround)** A 2015 change in the fire code requires any driveway more than 150 feet long to have a turnaround (cul-de-sac, Y or P shaped). The current 2018 code is the same. The driveway is about 210 feet. To provide they propose a special grass paver area in the middle about 130 feet from entrance to permit a fire truck to perform a turn around. Detail provided on a separate sheet in the set.
- **Retaining Walls west side line**, A three foot retaining wall has been removed and the area will be graded. A small wall is placed by Unit #2.
- **Grading Changes** moved the 428-foot contour over the detention system per Borough Engineer's request.

- **Soil Moving Cross Sections** amended to reflect rock profile data relative to public concerns regarding any need for blasting. Data obtained when they rock hammered for septic systems. Most rock is below the foundation. Only a few limited areas will need minor rock hammering. They will not need to blast on this site.

Attorney Hirsch asked Mr. Hubschman to respond to comments in Mr. Frenzel's letter updated July 14, 2020.

- **General Zoning** #1, #2 and #4 previously discussed by the Board Attorney. #3 requires no action and #4 is addressed on the revised plans.
- **Soil Moving** #1 reconcile soil moving volumes is addressed by the revised plans. #2 no blasting required
- **Drainage / Grading** #1 Applicant will comply with ADA requirements
  - #2 Conformance of Landscape Plan to Site Plan to reflect an exterior stair at the bottom end of the access driveway. The Landscape Architect will have to amend the plans. Chairwoman Parilla asked how they will address the ditch. Mr. Hubschman offered they'll provide a type of concrete plank to go over the small ditch.
  - #3 **Grass-lined Swales** along the east and west side property lines replace the original design for piping and testing to comply with best management practices which encourage overland flow. Chairwoman Parilla asked how deep the swale was. He'll have to look it up.
  - #4 **Spring** The site plan was revised to indicate an onsite water feature is a spring and not an "existing well." Attorney Hirsch added Mr. Peel will provide more detail at the next meeting.
  - #5 **Runoff** Mr. Hubschman deferred to Mr. Ciliberto who will testify regarding drainage at the next meeting.
  - #6 **Water Quality for 300-foot Riparian Zone** The Borough engineer maintains stormwater from the site discharges into a Category 1 stream / 300 foot riparian buffer requiring 95% TSS (total suspended solids) vs. the 80% provided in the current design. Deferred to Mr. Peel and Mr. Ciliberto.
  - #7 **Ground Mounding Analysis** and how runoff will affect neighboring properties deferred to Mr. Ciliberto.
  - #8 **Other plan details:**
    - Keystone Wall at westerly limit on the prior plan would have required a temporary construction easement from the adjoining neighbor. This was removed and a small wall added around Unit #2.
    - Generator Pad and Screening details provided on Sheet 8
    - Permeable Paver details added to Sheet 5
    - Existing Drainage Outlet Pipe inspection report dated 3/31/2020 provided by Applicant's engineer
  - #9 **Permeable Concrete Pavers** added to impervious coverage and included in updated drainage calculations.
- **Fire / Safety.** Turnaround discussed earlier. Chairwoman Parilla asked for the definition of a 'grassy paver.' Mr. Hubschman explained it's a type of plastic grid atop one foot of gravel filled with top soil and grass to accommodate the weight of a firetruck or, as Chairwoman Parilla questioned, perhaps a moving van. The access road is blacktop. Individual driveways are permeable pavers. The Fire Chief reviewed this plan by letter dated May 21, 2020 finding the turnaround acceptable. The Fire Chief requests a fire hydrant on Closter Dock Road to the west of the entrance so the department can lay hose without crossing Closter Dock Road.
- **Tree Removal.** Existing Conditions Plan revised to include the tabulation of trees including required number of replacement trees which is zero. The trees on site are exempt even though they will probably be adding a hundred trees. Attorney Hirsch noted the Landscape Architect, Mr. Meumann, testified previously. They will provide the Tree Protection Detail, as requested by Mr. Frenzel, prior to the next meeting.

Chairwoman Parilla invited the Board engineers to comment. Attorney Phillips reminded Mr. Frenzel remains under oath.

- **Fire Code Compliance (Turnaround)** Mr. Frenzel has experience with this type of turnaround and reviewed the applicable fire code with the Construction Code Official, Mr. Blackwell. He summarized Section 503 for the Board. He opines such turnarounds should be provided at the end of the road, not in the middle. Mr. Blackwell concurred. With all due respect to the Fire Department, Mr. Frenzel recommends the Board remand for an opinion from Mr. Blackwell and the Fire Official as the governing regulation is part of the State Fire Sub Code which designates the Fire Official, and not the Fire Chief, as the proper reviewing authority.
- **Exterior Stair** accessing Schoolhouse Lane. It was represented that the stairway was designed for people living in the development to gain safe pedestrian access to the Borough Hall property via Schoolhouse Lane.
  - The Landscape Plan shows a continuous string of evergreens and no clear path from the bottom of the stairs to Schoolhouse Lane. There is a ditch between the foot of the stairs and the road. These are potential hazards.

- The elevation of the stair at the top of the wall is 428 feet. The elevation at the top of the trench drain is also 428 feet. This may be a question for Mr. Ciliberto but in the case of a very intense storm event where the water rushes down and the pipes can't take it or if there's an icing condition is the water going to either backup out of the trench drain or overtop the trench drain, overtop the wall which is at the same elevation and run down the stairs towards the ditch on Schoolhouse Lane. This needs to be reviewed.
- **Parking Spaces** in front of the individual units. If you scale the plan the depth of the spaces in front of the units appears to be about 17 feet. 18 feet is required under RSIS. This issue needs to be addressed because it could have a very significant impact on the parking.

Mr. Frenzel will have additional questions for Mr. Peel and Mr. Ciliberto. Mr. Vander Veer has nothing to add at this time.

Attorney Hirsch questioned Mr. Frenzel:

- **Fire Code Compliance (Turnaround)** Where in the State Fire Code or the Uniform Fire Code does it indicate the turnaround has to be at the end of the road. Mr. Frenzel, while affirming location is not expressly stated in Section 503, explained the regulation does state they are subject to the ruling of the Fire Code Official. He further noted his experience on the design side with the submission of plans in Secaucus where he was required to move the turnaround from the middle to the end of the road for that townhouse project.
- **Exterior Stair Access to Schoolhouse Lane over Ditch** What does Mr. Frenzel think of Mr. Hubschman's suggestion to install a concrete plank? Does he have an alternative proposal? Mr. Frenzel replied they'd like to see the proposed design detail on a plan to explain how it goes over the ditch and what occurs on either side of the ditch, the ditch to the bottom of the stairs, etc. Attorney Hirsch will try to produce an exhibit with more detail for Mr. Frenzel's review prior to next month's hearing.
- **Parking Spaces.** They don't scale out? Mr. Frenzel explained they scale at 17 feet and the minimum requirement is 18 feet. Was that in his review letter? It was not in his letter but he realized it and brings it up here. Attorney Hirsch stated they will address.

Chairwoman Parilla opened to the Board for questions. There were none.

Chairwoman Parilla opened to the public for questions.

Attorney Capizzi questioned Mr. Frenzel

- **Parking Spaces** Will he amend his review letter to include this evening's comments? He can. Applicant needs to submit revised plans regarding other issues. If the parking spaces are not the required minimum length, they would not be in compliance with RSIS. There are two spaces per unit currently scaled at seventeen feet. If deficient this would eliminate fourteen spaces where twenty-eight are currently provided and seventeen are required. They would need a variance.
- **Fire Code Compliance (Turnaround)** There are no depictions of the proposed turnaround in the current Fire Code. It is left to the local Fire Official to determine what is acceptable. He does not know who requested the Fire Chief write the letter and has not discussed his letter with him.

Regarding use of grassy pavers while use may be a viable concept, he has two concerns: 1) after a few months of growth they look like grass. Unless carefully delineated along with fire striping on the road and signage, a fire truck, particularly from a neighboring community or even an unfamiliar driver from the Borough's fire department, would not know where the turnaround was. 2) Fire trucks are heavy. No analysis was provided regarding soils, substrata or cross sections through the pavers as to what is being installed beneath them to determine if they are a viable option in this particular area. A structural and geodesic analysis is needed to make a determination of adequate support for this type of equipment comparable to over-the-road trucks being 70,000 – 80,000-pound vehicles.

He believes the Alpine Fire Department has three pieces of equipment: a small truck mounted on a 4-wheel pickup chassis and two primary vehicles which appear to be shorter pumper trucks. They do not have an aerial ladder truck. He thinks the Fire Chief in his letter was commenting basically just on the smaller type of trucks Alpine owns. A neighboring municipality could absolutely be called upon to assist in a fire fighting situation.

From the current submission he cannot tell if the turnaround is designed to service just Alpine equipment or would also cover equipment from another municipality. That's why he references turning radius in his review letter. Each individual truck and each different sized truck have a different turning radius and requires a different movement to get into a particular spot. An analysis is needed that shows the radius for both of the Alpine trucks and for any ladder truck arriving from a cooperating municipality.

### **Richard Incontro, 36 Schoolhouse Lane**

It was stressed to Mr. Incontro on several occasions this portion of the meeting is for questions only and not statements and that he would be provided with an opportunity to make comments and submit exhibits later at the appropriate time.

- **Fire Code Compliance (Turnaround)** Are the grassy pavers impervious and what is the impact on coverage limitations? Mr. Hubschman responded the pavers resemble grass when they grow in and this zone does not have an improved coverage requirement. Attorney Phillips clarified this issue has been discussed many times. This zone has a building coverage limitation but no impervious coverage limitation per the ordinance. Schoolhouse Lane is a dead-end road and there are wires on both Schoolhouse Lane and Closter Dock Road. As a volunteer firefighter he knows the turning radius is very important. Should you consider a turnaround for a ladder truck? Mr. Frenzel responded they will take that into consideration.
- **Exterior Stair Access to Schoolhouse Lane over Ditch** Have either Mr. Frenzel or Mr. Hubschman experienced overflow from the site onto Schoolhouse Lane. Both answered no. Is Chairwoman Parilla aware of multiple events of overflow in the past creating a nuisance at the end of Schoolhouse Lane and is it gravel or dirt? Ms. Parilla responded she is not sure but believed that area is gravel, grass and weeds. As to overflow she can't say but that could well be.
- **LOI [Letter of Interpretation]** For this amendment will Alpine Three ever have to get a new LOI? Attorney Hirsch explained that is a question for Mr. Peel who has answered and will return and answer it again. Attorney Phillips concurred that is an engineering or environmentalist question. An LOI is required if there are wetlands. In this case the wetlands were already removed pursuant to a permit. Mr. Incontro countered that the permit was not executed because Alpine Three never filled the wetlands. Attorney Phillips stated that is not consistent with his recollection of the testimony which was that Alpine Three had a permit to fill the wetlands and filled the wetlands prior to the LOI expiring. Once wetlands have been filled a LOI is no longer required. Attorney Hirsch concurred. Any question can be addressed to Mr. Peel at the next hearing.

### **John McCaffrey owns the adjacent property at 974 Closter Dock Road**

- **Retaining wall westerly side** Is the wall being removed in total? Mr. Hubschman responded yes, there was a three-foot wall along Mr. McCaffrey's property line that has been removed. There's a small piece that will remain at the bottom rear by Schoolhouse lane. The slope from the buildings towards the property line is less than 1:4. Everything slopes in toward the Applicant's property to the grass swale.
- **Grass Swales** Will the swales collect runoff from the backyards of all the buildings; do they have catch basins and if so what size pipes? Mr. Hubschman replied yes as there's a swale on both east and west sides. Catch basins are located at the lower ends piping water to the detention system. The pipe on the west side is twelve inches and a ten-inch pipe along the rear of the property picks up the water from the east side.
- **Fence** Will there be a fence on the western side and if so how high? A four-foot chain link fence will be located about half a foot off the property line.

Being no further questions Chairwoman Parilla closed the meeting for public questions.

Attorney Capizzi noted he questioned Mr. Frenzel but deferred questioning Mr. Hubschman to allow the public to go first. He also has procedural issues to place in the record. Chairwoman Parilla reminded as part of the public he already had an opportunity for questions but may proceed. She asked he defer procedural questions for later.

- **Spring.** Do the plans show the invert for the spring? Mr. Hubschman replied no they do not. He did measure the rim of the well which is 430.4 feet and the water elevation is at 427.2 feet. You wanted us to measure down into the well. Mr. Capizzi clarified he seeks the existing condition of the invert versus the proposed condition of the invert. Mr. Hubschman concurred it is not shown on the plan. Mr. Capizzi stated he had asked that be added. Attorney Hirsch objected stating any such request needs to come from the Board.
- **Steep Slope Analysis** Is this provided? No plan is provided but they added a note to the existing conditions plan that there are no steep slopes on the property.
- **Drainage Ditch** Will the rear drainage ditch remain undisturbed? Yes, except they're adding ten feet of rip rap at the westerly end as a protective measure against erosion. They're not increasing the runoff.
- **Fire Code Compliance (Turnaround)** Who engaged the Fire Chief? Did Mr. Hubschman discuss with the Fire Chief? Who designed the turnaround? Is it impervious? Design questions? Mr. Hubschman did not speak directly with the Fire Chief. They engaged Mr. Naylis<sup>1</sup>, an expert in Fire Safety, to talk to the Chief. Mr. Naylis did not design the turnaround. Mr. Hubschman stated his office designed the turnaround exactly as shown in Appendix D Fire Apparatus Access Road. Someone commented it should be at the end of the road but that would be impossible because that's a T shape. There are hammerhead, 70-foot and 96-foot diameter radius turnarounds but theirs is specifically shown in Appendix D, Section D 101 of the Fire Code. The turnaround is included as impervious in the drainage report but they chose grassy pavers over macadam for aesthetics. They do not currently show any signage on the plan but could add if directed by the Fire Official.
- **Buoyancy Relative to Detention System** How will this be addressed? Buoyancy calculations show no effect. End sections are concrete with no other anchors. They are gravity structures and not bolted to the bedrock.
- **ADA Spaces** Material and requirements? The plan provides pervious pavers. They need to meet ADA requirements. He does not have the regulation saying he can use something besides macadam.
- **Grass Swales** Does he provide a Drainage Area Map? Yes, as part of the drainage report. How much of the drainage area drains to the grass swales?. He can look it up but Mr. Ciliberto will testify to this. Attorney Hirsch explained for practical purposes different engineers are addressing different aspects. Attorney Capizzi offered Mr. Hubschman is co-signatory on the report and can look up the information. Mr. Hubschman offered in the report its area A-16 in Section 17 of the report but he doesn't have the large map with him. He affirmed everything contributory to the grass swales winds up in the detention system.
- **Cultech Chambers** Do the chambers drain to the detention system? Mr. Hubschman explained these are part of groundwater recharge and then overflow would be directed into the drainage system. Mr. Ciliberto is the one to ask about rates of recharges. He prepared that aspect of the report based on actual soil calculations in the field. It is not based on assumptions.
- **Stormwater Management Force Main** as noted in Mr. Frenzel's letter and Mr. Vander Veer's memo will be addressed. Attorney Hirsch affirmed questions should be directed to Mr. Ciliberto.
- **Force Main** Attorney Capizzi asked if the Board wished him to ask his series of questions at this time or wait for a later date. Chairwoman Parilla polled the Board and then asked he save for a later date.

Chairwoman Parilla asked Attorney Capizzi if he wished to address his procedural questions at this time. Attorney Capizzi referred to his letter addressed to the Board dated July 27, 2020 and asked that this letter be made part of the record. Attorney Hirsch acknowledged receipt of the letter. Attorney Phillips marked **[Exhibit O-5]**.

Attorney Capizzi noted one point in his letter voices his objection to Chief Khorozian's letter being entered into the record on this application. It has not yet been moved into evidence but in the event that it should be, he objects because Mr.

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<sup>1</sup> Gerard Naylis, Technical Fire Services, Inc.

Khorozian is not present and available for cross examination and Mr. Blackwell, not the Fire Chief, is the proper authority. Chairwoman Parilla advised they will ask Mr. Blackwell to attend the next meeting.

Attorney Capizzi noted discussion whether to term the application as “preliminary” or “amended preliminary.” He asked the Board to make a determination early in these proceedings opining the application and notice attempt to frame and limit the issues before the Board which make it sound as if stormwater management is the sole issue to be addressed. The Board and public need clarity on the issues to be decided. Chairwoman Parilla deferred to Attorney Phillips who recalled the Board indicated during discussions almost a year ago that they would review all aspects of the site plan. There have been a number of revisions for the access road and stormwater management plan. During the last few hearings they reviewed almost every aspect of the plan. Whether they call it amended or preliminary he does not believe it is misleading to the public. The entire application has been here, witnesses have presented on every aspect and there will likely be more. The public and yourself, as objector’s counsel, have had an opportunity to question all aspects. They’re really looking for preliminary approval here because there is no site plan that has been approved, even by the Court, that is still in effect and certainly Judge Meehan, while he said the Board couldn’t deny on certain aspects of the application, they were free to look at the entire application.

Attorney Hirsch responded that Attorney Capizzi’s characterization of her notice letter left a lot out but it is quite clear and everything being reviewed is in the notice. Mr. Khorozian’s review letter could have been issued at the request of the Board or the Applicant. Whenever there is a review letter from a municipal agency putting forth comments on a site plan application there is no requirement for that review letter to be held out of evidence unless someone testifies to support it. That only applies to experts appearing on behalf of the applicant, objectors or members of the public. Those people, in order to get their reports into the record, obviously have to testify before the Board. She does not believe that requirement applies to fire officials, etc. The letter is included with their application and is already in the record so to speak.

Chairwoman Parilla closed to questions from the public.

Mr. Frenzel noted Mr. Hubschman referenced Appendix D from the Fire Code which shows the configuration of the various types of fire truck turnarounds. In 2018 the State adopted the International Fire Code of 2015 and the Fire Subcode from New Jersey. Appendix D was appended to the 2015 International Fire Code. However, in September 2019 DCA [the Department of Community Affairs] adopted the 2018 International Fire Code and the Fire Subcode from New Jersey and Appendix D was very specifically included giving the final authority over compliance to the Fire Subcode Official. Chairwoman Parilla looks forward to Mr. Blackwell’s appearance at the next meeting to comment on the proposed turnaround.

**Site visit** Chairwoman Parilla wished to discuss applicant’s denial of access to the site for the Board’s expert. The Board also wishes to view the site and specifically the spring/well and to be able to have the lid removed so they can look down into that feature. The path is overgrown and would need to be cleared. Attorney Hirsch conferred with her client and agreed they can permit access conditioned upon 1) proper notice so they can prepare the site and have their expert present and 2) only the experts and Board members but no members of the public be allowed on site. Attorney Phillips reminded they can visit in small groups but must not exceed a quorum or discuss the matter at any time during the site visit. Arrangements will be made prior to the next meeting so they have a visual understanding of the existing site conditions prior to further testimony from Mr. Peel and Mr. Ciliberto.



Opened to the meeting for comments:

**Richard Incontro, 36 Schoolhouse Lane**, was sworn. Mr. Incontro objected to holding this meeting in-person during the pandemic and the format where they can't adequately view the exhibits. Many attending are over 65 and they shouldn't have to risk their health. No one is getting enough information to make a good judgment and any concept this meeting could go virtual is foolish. This only benefits Alpine Three. He asked at three previous meetings for what the total volume in gallons is for the tanks at the end of the property and every engineer defers to the next. He believes they're being deceived. The presentations have been too quick and fractured. This is unfair not only to the Board and to the Alpine Community but its unfair to Alpine Three. We've been doing this for twenty years since November 1999 and "you're going to tell me six months is going to make a difference?"

The original NJ DEP LOI identified isolated wetlands and called the spring a well. If you look at the original deed that Mr. Norian purchased the property it specifically states that there is a percolating spring there so and he's asked this question many times. If there is a spring there why didn't they put it to the LOI people. I've asked those people and they say it's an abandoned well because that was what was on the plans. First go round everybody swore that was the truth and now on the second go round they've changed the plan to show the spring. He really wants to know what the truth is. He believes they were just going to fill the wetlands, bury the spring, backfill and put a building on top but they haven't done that yet. If that is the reason they're not going to get another LOI we are being taken to the cleaners. He still doesn't have a clear idea of what this property will look like. "Yes, I'm upset and I think the other thing that every Board member should realize is that the first time the Board looked at it they were given faulty information – no spring. We spent 15 years following a lie. And now we spend another five years running after another rabbit hole. Thank you."

**John McCaffrey**, seconded every word that Mr. Incontro said. It is the truth that they've been led down a road of lies, Boards have made their decisions on those deceptions and we're even here tonight because of all the deceptions. It's time that it gets straightened out.

Being no further comments Chairwoman Parilla closed the public comment section.

Attorney Phillips reviewed the resolution for continuance:

**Resolution:** Upon a motion by Mr. Kupferschmid, seconded by Ms. McGuire and approved by all those eligible to vote, this matter is carried to the next meeting Tuesday, August 25, 2020 with no further notice required. In the event the meeting is cancelled for emergency reasons including reinstatement of the Governor's Executive order it will carry to the next following regularly scheduled meeting. Attorney Hirsch affirmed.

Chairwoman Parilla thanked everyone for their cooperation and all the staff for making it possible to conduct a safe, socially distant meeting. Although difficult this needs to be done and while it would be nice to know things will be fine in five to six months they just don't know if that will be the case and have to move on the best way they know how.

**COMMUNICATIONS** - Noted for the record

- Letter dated 7/9/2020 from Matthew Capizzi, Esq. re: Request for Issuance of Subpoena
- Notice of Soil Erosion & Sediment Control Plan Certification re: Block 22 Lot 12
- 200 ft. Property Owners Lists: 43/6.01,6.02,6.03; 81.05/2; 60/15.01

**BILLS AND CLAIMS:** A motion to approve the below referenced bills was made by Ms. Sonpal, seconded by Ms. Mattes and approved by all.

Clarke Caton Hintz	\$ 356.50	Court Appointed Master June	COAH
North Jersey Media Group	\$ 23.28	Public Notice Special Meeting July 20, 2020	
		Master Plan Re-exam & Open Space Amendment	
Huntington Bailey, LLP	\$ 4,387.50	Legal fees April, May	COAH

**COMMITTEE REPORTS:**

Northern Valley Mayors & Planners Assoc.: No report.

Board of Health: No report.

Environmental Commission: unable to discern.

Building Department: Report on file.

NJ Transit Update: No report.

COAH Update: No Report

**ADJOURNMENT:** A motion to adjourn the regular Planning Board meeting was made by Mr. Kupferschmid and seconded by Ms. McGuire. All were in favor. The meeting adjourned at 9:31 PM.

Respectfully submitted,

Marilyn Hayward  
Recording Secretary