

ALPINE PLANNING BOARD

Alpine Borough Hall
100 Church Street
Alpine, New Jersey 07620

MINUTES

January 22, 2013

CALL TO ORDER/PUBLIC ANNOUNCEMENT: The Planning Board, Borough of Alpine, convened in regular session on Tuesday, January 22, 2013 at 7:30 P.M. Recording Secretary Marilyn Hayward 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, January 22, 2013 at 7:30 P.M. has met the requirements of the law by publication in The Record and posted on the bulletin board of the lobby in the Borough Hall and filed in the office of the Borough Clerk.

ROLL CALL:

Members Present:	Catherine McGuire	Jeff Fromm
	Mayor Paul Tomasko	William Robinson
	Gayle Gerstein	David Kupferschmid, Atl. I
	David Andrews (arrived after roll call)	Martin Cybul, Alt. II

Members Absent: Chairperson Catherine Parilla
Lorraine Mattes
Ralph Mattes

Staff Present: John Phillips, Board Attorney
Gary Vander Veer, Borough Engineer
Marilyn Hayward, Recording Secretary

SWEARING IN OF 2012 OFFICIALS: Catherine McGuire, Gayle Gerstein and Martin Cybul, Alt. II were sworn in by Attorney Phillips.

REORGANIZATION:

A motion to nominate Catherine Parilla as Chairperson, Catherine McGuire as Vice-Chair and David Andrews as Secretary was made by Mayor Tomasko and seconded by Gayle Gerstein. There were no further nominations. The motions were carried unanimously.

APPOINTMENTS:

Board Engineer:	Gary Vander Veer of Azzolina & Feury
Board Attorney:	John Phillips of Sills Cummis & Gross
Borough Planner	Joseph Burgis of Burgis Assoc., Inc.
Special COAH Counsel:	Robert Kasuba of Bisgaier Hoff, LLC
Recording Secretary:	Marilyn Hayward

A motion to re-appoint the professionals and staff referenced above and to adopt the Professional Services Resolutions for Board Attorney, Board Engineer and Borough Planner was made by Mayor Tomasko and seconded by Gayle Gerstein. The motion was carried unanimously.

APPROVAL OF MINUTES OF DECEMBER 18, 2012 REGULAR MEETING: A motion to approve the minutes of the December 18, 2012 Regular Planning Board meeting was made by Mayor Tomasko, seconded by Gayle Gerstein and carried by those eligible to vote.

OPEN TO PUBLIC (NON-AGENDA ITEMS): There were no comments or questions from the members of the public in attendance.

NEW APPLICATIONS: Amended Preliminary & Final Site Plan and Soil Moving Permit Approval: Alpine Three, L.L.C., Block 43 Lots 6.01, 6.02, 6.03 (Carried from Dec. 18, 2012).

Mayor Tomasko recused himself as he owns property on Church Street which is within 200 feet of the proposed route for the sanitary sewer line.

Attorney Phillips reported that this matter was carried to afford the applicant time to correct discrepancies between architectural and engineering plans. It appears the plans have been corrected, eliminating variances that had not been noticed for the prior meeting; therefore, the December 18, 2012 meeting notice should suffice. However, since the Board has not had an opportunity to look at the Board Engineer's review letter, just received tonight, to prepare a thorough cross examination, the matter will likely need to be carried.

Mr. Phillips asked applicant's Attorney to update newer members as to the history of the application.

Appearing on behalf of the Applicant is Lloyd H. Tubman, Esq. of Archer & Greiner, PC, Plaza One, 1 State Route 12, Suite 201, Flemington, NJ 08822 with witnesses Michael Hubschman, Hubschman Engineering, PE, PP 263 A. S. Washington Avenue, Bergenfield, NJ and Raymond Virgona, of Virgona & Virgona Architects/Planners 115 River Road #1031 Edgewater, NJ. Attorney Tubman will provide transcripts of all hearings for the benefit of absent Board members. In addition to the engineer they will provide a traffic expert for the next meeting.

Exhibits marked during the course of these proceedings:

- A – 1 Settlement Agreement
- A – 2 Implementing ordinance along with corrective resolution
- A – 3 Engineering plans prepared by Michael Hubschman, PE, PP dated 7-13-1999 latest revision 1-9-2013
- A – 4 Storm filter perlite sample
- A – 5 Architectural plans prepared by Raymond Virgona, RA, PP dated 5-1-2012 latest revision 1-2-2013.

Background

Ms. Tubman reported that in May 2000 the Borough of Alpine entered into a Settlement Agreement with Alpine Three, LLC [**Exhibit A-1**] to address its affordable housing obligation. The proposed 7 town house units do not include an affordable housing unit as a payment was made to the Borough satisfying that requirement. The Mayor and Council adopted an implementing ordinance [**Exhibit A-2**] incorporating zoning standards established by the Settlement Agreement. Later, an error in the ordinance was detected which the Governing Body tried to correct by adoption of an amending resolution [**included with Exhibit A-2**] deleting the words "improved lot coverage" and inserting "building coverage." This resolution was later deemed imperfect having not followed proper protocol for ordinances. However, at that time the Alpine Three, LLC application came before the Planning Board and all assumed the 30% limitation on building coverage and the Planning Board's resolution stated there were no variances. It turned out this was not the case as a variance was needed for improved lot coverage. The predecessor Board unanimously denied the application. The Applicant appealed to Superior Court Judge Harris who reversed the denial and remanded the matter back to the Planning Board for adoption of a resolution with reasonable conditions. The Board adopted another resolution that was, in part, objectionable and in 2005 the matter returned to Judge Harris who excised some of the conditions.

Since then they have been working on other agency approvals:

- 1) NJ DEP: They applied to the NJ DEP for a General Permit 6 to fill an isolated wetland on the property.

- 2) State Historic Preservation Office: The property is in a historic district which triggered review by the SHPO and dictated architectural changes to make the building elevations consistent with the historic location in the village center. This in turn modified the footprint which then exceeded 30% building coverage and slightly narrowed the required separation between buildings. This has been corrected. The architect will explain the revised plans.

With this application they seek Revised Preliminary Site Plan Approval in three areas to be described by their engineer:

- 1) Proposed private sewer line. The prior plan called for the line to exit their property and traverse the municipal lot to Church Street. They were not aware at that time the municipal property was encumbered by Green Acres restrictions. The revised route brings the sewer line out into Closter Dock Road and along public streets.
- 2) Retention system as modified to meet stormwater rules mandated by Governor Whitman's Executive Order 109 and revised NJDEP's Stormwater Management regulations.
- 3) Changes in elevation to bring the building's character in line with the historic district.

Mr. Phillips acknowledged the issue regarding the ordinance confirming applicant was correct to notice for a variance; they are covered from a jurisdictional standpoint. He believes it clear from the history of this application and the governing body's actions that the intent was a limit on building coverage, not improved lot coverage.

The Board's Engineer, Gary Vander Veer, was sworn.

The Applicant's Engineer, Michael Hubschman of Hubschman Engineering, 263 A. S. Washington Avenue, Bergenfield, NJ was sworn, testified to his credentials and deemed qualified to provide expert testimony as a Site Plan Engineer. His plans consisting of 12 sheets dated 7-13-1999 latest revision 1-9-2013 were marked **[Exhibit A-3]**.

Referring to Sheet 2 "Site Plan" Mr. Hubschman described the site being 47,539 square feet or a little over one acre. The plan is essentially the same as that first presented in 1999 proposing seven townhomes, a 25 foot wide road in the center, two guest parking spaces in the rear and a van accessible space in front. A split rail fence is located in front with chain link fencing on the sides. A five foot retaining wall would be constructed along the rear and filled in front to level the property which slopes down from Closter Dock Road. The two-way road, across from Main Street, will comply with County requirements for slopes and has a stop sign entering Closter Dock Road. Building coverage is 29.75%.

Referring to Sheet 3 "Grading, Drainage & Utility Plan," Mr. Hubschman noted although originally the 2 inch sewer force main was designed to go from Schoolhouse Lane across Borough property to Church Street, the new proposed route would reach Cresskill's system via Closter Dock Road to Church Street to Hillside Avenue.

Referring to Sheet 3 and details on Sheet 12 "Storm Water System Detail," he described three components to the stormwater management plan addressing quality, recharge and quantity.

1. Quality: They must remove 80% of suspended solvents. Rather than the prior plan using sand or bio-retention filters they now propose to use a new DEP approved manufactured storm filter product developed in 2008 to address the groundwater conditions. Each storm filter contains seven eighteen inch cartridges filled with perlite (sample provided) **[Exhibit A-4]**¹. Storm filter basins would be located three feet deep in an accessible location at the rear of the property. Filters require an annual maintenance inspection and replacement of cartridges every three years. They will use two of the four storm filter basins and one will have only three cartridges as it picks up less area.
2. Quantity: Five 42 inch pipes in the rear area will store water for slow release via a series of orifices.

¹ Mr. Phillips directed Mr. Hubschman to keep custody of the perlite material [Exhibit A-4]

3. Recharge: Two shallow seepage pits will be located sized per NJDEP spreadsheet calculations for the area to be directed towards the recharge. He will correct his report which erroneously used 1.04 acres instead of 1.08 in the calculations but did not think this would have a significant change in the size of the seepage pits.

The meeting was opened to the Board for questions of Mr. Hubschman with Mr. Phillips reminding that Board members had not yet had an opportunity to review the Board Engineer's letter. Board members asked Mr. Hubschman to address their questions and concerns on the following issues.

Proposed Stormwater Management

- 1) Impact of water table levels and potential for water to become trapped behind the retaining wall.

A prior Board Engineer review letter recommended more even spacing. Mr. Hubschman explained current seepage pit locations were chosen because they were not picking up enough in the front and they did not want to locate them on the lower end because the groundwater flows with the normal contours; these only need to pick up part of the roof water. Sheet 7 "Existing Conditions Plan" outlines the 40-50 test pits done over the past 15 years, some by a prior engineer. The latest were done in the southwest corner where water levels were reasonable in December but he acknowledged are now very high. Mr. Hubschman stated the 42" drainage pipes located 12-18 inches are below existing grade and sealed so they would not fill up with water if the water table increases; furthermore the table should be lower after construction. He is more concerned with flotation. Sheet 3 "Grading, Drainage & Utility Plan" shows two drains to pick up water behind the retaining wall. Additional levels of defense include perforated pipe that encircles the entire site and footing drains to collect groundwater. Once rock on site is hammered or excavated, the water will follow the bottom of the footing elevation. These measures will lower the water table and redirect the water.

- 2) Concerns with system's ability to handle both stormwater and groundwater and final discharge of recharged water towards the southwest corner potentially creating a very wet condition for the neighboring properties.

Mr. Hubschman testified the retention system will not drain directly into the pipe where it crosses Schoolhouse Lane to Lot 3 but into the existing ditch at the rear of the property where the runoff currently flows. This ditch then flows behind the Borough Hall. He reminded they do not have to pick up 100% of the water. They have to reduce runoff by 50% of what currently exists. The system was designed very conservatively for a hundred year storm. He calculates current runoff for a two year storm at 1.4 CFS and the proposed plan is for 0.7 CFS. The time of concentration for an inundated site is probably less than six minutes. He did not perform a capacity study. The Board, concerned with the potential for combined ground and stormwater backup/overflow, would like to see one.

- 3) System Maintenance Requirements

Mr. Hubschman clarified storm filters require inspection annually or after any event such as a severe storm, oil spill or car leak on site. Cartridge replacement is needed every three years dependent on usage and how dirty they get. As the perlite fills up with debris and solids the chambers filter it to the bottom to be vacuumed out. Mr. Cybul noted unfavorable experiences with perlite requiring replacement every year. Oils, spills, someone cleaning their car can potentially compromise the system. While sand filters are not much better, perlite is expensive and maintenance will be an ongoing concern for the developer to consider. Mr. Hubschman felt the system is actually easier because you just call the company to do the work.

Proposed Road Relevant to Traffic Safety and Accessibility

- 1) Ability for fire trucks to make the turn from Closter Dock Road and maneuver on the lot's road.

Mr. Hubschman stated this is a standard road with a 34 foot wide apron and a road width of 25 feet. A fire truck cannot turn around in that space; it will have to back out. The fire hydrant is located on the opposite side of Closter Dock Road. Mr. Hubschman felt this was safe access.

2) Requirements and ability for delivery and service trucks and vans to park and/or turnaround.

The Board questioned the safety of moving, service and delivery vehicles backing out onto Closter Dock Road, a busy County thoroughfare, particularly as another road, Main Street, is directly across from the entrance. Mr. Hubschman stated he assumed that not all of the parking spaces will be in use and at least one would be free, enabling a truck to turn around. He did not have data that proved trucks could turn around even if there were no other vehicles parked but offered they could potentially relocate the guest spaces slightly and get a small turn around area at the end.

3) Alignment of proposed road with Main Street

Noting these roads are slightly off center in relation to each other on opposite sides of Closter Dock Road, the Board questioned safety as a slight difference can impact perception and be worse than a significant one. They will have a traffic expert address these issues at the next meeting.

Proposed Sanitary Sewer Line

1) Application to NJ Board of Public Utilities.

The Board questioned if they applied to NJBPU as requested by the Board Engineer. Ms. Tubman noted this would be an outside agency approval. The Board pointed out the NJBPU likely distinguishes a sanitary waste line as a utility and, going through a public right of way, may have stringent requirements such as establishment of a corporation for maintenance and/or demand for access easements which could impact and perhaps should precede this application. Ms. Tubman will check into it.

2) Road Opening Requirements and Costs

Noting the extensive distance that will be required for the proposed sanitary sewer line the Board questioned the disturbance to the roads and asked if the Applicant is aware of road opening and repair requirements. Mr. Hubschman's response was that the proposal calls for installation of a two inch diameter polyethylene fusion welded pipe in a trench three feet wide and at least three feet deep. The depth will vary where they may need to go under utilities and hammer rock. The County wants them to keep out of their roads or near the sides as well as on the opposite side of a water line in Hillside Avenue. The Board noted the common presence of glacially scored bedrock as seen erupting at the corner of Closter Dock Road and Church Street. Mr. Hubschman acknowledged they would probably have to pre-drill and then hammer to reach the appropriate depth. Asked if they had considered the enormous costs, Mr. Hubschman stated past estimates ranged \$100-\$200 per foot for a length of about 5,000 feet.

3) Maintenance

Ms. Tubman stated the original resolution as confirmed by Judge Harris's decision obligates the applicant to reach agreement with the Governing Body on the amount of a Perpetual Maintenance Bond to be posted. After the units are sold a Homeowners Association would be responsible for maintaining both the bond and the system. Attorney Phillips would recommend the Board include a provision making both the individual unit owners as well as the Homeowners Associations lienable for any additional costs including maintenance and repairs in case work is needed but not done and the bond were found to be insufficient. Mrs. Tubman agreed this is not an unusual condition.

Historic District.

Archeological Review. The Board questioned if there had been a full archeological review of the site to determine the presence of any historic or Indian artifacts, items often found near old wells like the one on this site. Ms. Tubman replied that they submitted a full architectural review including an archeological examination which is typical for property with a stream. This was approved by the NJS Office of Historic Preservation and a copy of the report submitted to the Borough. Ms. Tubman will go back to the company they engaged to evaluate the property and return with the exact information to verify the extent of the archeological evaluation.

The meeting was opened to the public for questions only regarding Mr. Hubschman's testimony which were asked by neighbors, Mark Wellington, Richard Incontro, and John McCaffrey.

Mark Wellington, resident corner of Closter Dock Road & Church Street, questioned the following:

- 1) Impact from a fairly steadily flowing spring on the stormwater management system. Mr. Hubschman advised the 42 inch pipes will act as a reservoir to store water and release it at a slower rate.
- 2) The maintenance bond required for the 5,000 foot sanitary sewer line. Ms. Tubman and Mr. Philips repeated the prior explanation of a bond to be established in the Developers Agreement plus additional provisions in case that is found to be insufficient.
- 3) Permissibility of generator pad as located relative to the 20 foot setback and the Borough ordinance's treatment as an accessory structure. Mr. Hubschman stated the location was dictated by location of the pump station and opined accessory structure criteria did not apply in the COAH-1 zone. The Attorneys for the Applicant and the Borough will review.

Richard Incontro, resident of Schoolhouse Lane questioned the following:

- 1) Clarification why there were two Public Notices and if the Settlement Agreement provided for seven units or just "up to seven." Ms. Tubman clarified they re-noticed to address a discrepancy in the plans and to include all property owners within 200 feet of the proposed sanitary sewer line. Although the Settlement Agreement says "up to seven" the Court stated the Agreement provides for seven units.
- 2) Reference to 30% coverage and the Applicant's inclusion of the ten feet to the center of Schoolhouse Lane as part of their coverage calculations as well as the twenty foot setback.

Ms. Tubman again reviewed the ordinance/resolution history: they are permitted 30% building coverage. Mr. Phillips recalled the 1986 Borough Ordinance [#385] vacating the public interest in Schoolhouse Lane which was further clarified in a December 22, 1988 Superior Court decision upholding vacation of the public rights while affirming private rights were to be maintained; no property owners abutting the road may prevent its use for access by the other abutting property owners. When the street was vacated, abutting property owners reacquired their title to the middle of the road. This ten foot strip may be included in lot and setback calculations but is subject to the rights of others to cross it and no structures can be placed thereon. Mr. Hubschman noted the proposed retaining wall will be five feet high and eleven feet back from the center of the lane. Mr. Incontro questioned this noting the proposed setback to Schoolhouse Lane will be closer to the curb than any of the other neighbors. Mr. Hubschman replied that is their rear yard and the buildings will be 22.3 feet from the center line or about 12 feet from curb. Mr. Incontro questioned what if the street had not been vacated and they had to cite the buildings back another ten feet; wouldn't that be more in keeping with the historical concept of Alpine.

- 3) The spring and its impact when combined with stormwater runoff.

Mr. Hubschman repeated this would be handled by the 42" storage pipes. Discussion followed where it was not clear if DEP classified this feature as a spring or an abandoned well. Mr. Incontro pointed out the DEP permit to fill wetlands did not include the spring and prior ordinances and historical documents refer to it as the DuBois Spring. Mr. Hubschman stated this is not his area of expertise and Ms. Tubman advised it was addressed by a court order she does not have with her at this time. Mr. Incontro noted he currently has problems with water in his basement and asked if they included their area of compacted lane surface in their calculations. Mr. Hubschman stated it was, but reminded they only have to manage the stormwater runoff. He felt any contribution from the spring would be negligible. Mr. Hubschman was asked if had observed the spring as part of the water testing sites. Mr. Hubschman recalled some sort of water feature but was not concerned with the water levels.

The Board further discussed the questions regarding existence and location of a spring on the property. Ms. Tubman clarified there is a feature that was historically called a spring which the Court said Alpine could, if it elected, vacate. It is not clear if Alpine ever did so. They have obtained two DEP Letters of Interpretation (LOI) which identify regulated features and it does not appear as a wetland or state open water. Mr. Phillips opined Alpine apparently vacated both the street and the public rights to the spring water in 1986 and the court said *"as stated above, if this court is satisfied after the Borough of Alpine makes application to the DEP or any appropriate state agency that they do not require prior approval to vacate a percolating spring I will enter an order as provided above."* He interpreted the court finding as a) there was a percolating spring and b) Alpine could vacate the public rights to it providing there was no requirement that they go to DEP. It is unclear if any further action was taken and disagreement over whether the feature was identified by DEP as a spring or an abandoned well. A Board member felt this should be clarified where Ms. Tubman opined the question of whether the feature is a spring or a well will never be resolved. Either way it would not be included in the stormwater calculations nor is it something regulated by DEP or they would have called it out in their LOIs. Mr. Hubschman again asserted the impact is negligible. Mr. Incontro questioned this noting the NJDEP Freshwater Wetlands Rule effective 10/7/2002 definition *"Waters of the State" means the ocean and its estuaries, all springs, streams, wetlands, and bodies of surface or ground water, whether natural or artificial, within the boundaries of the State of New Jersey or subject to its jurisdiction.* Ms. Tubman advised she helped craft that rule but insisted DEP did not regulate this feature in either LOI. She will provide copies of the LOIs and prior resolutions to the Board to demonstrate ground she feels they've already covered.

John Patrick McCaffrey, adjacent property owner, questioned the following:

- 1) Volume of spring water. Mr. McCaffrey questioned if Mr. Hubschman had measured the volume of water coming from the spring having noted in his 37 years of observations that the spring has continually flowed even during times of drought. Mr. Hubschman stated he only made visual observations and had not performed any calculations.
- 2) Private rights to the spring.

Mr. McCaffrey stated he traced his deed to the original land map of 1892 by Thomas R. DuBois as filed in the County. It specifically delineates the DuBois Spring located on Schoolhouse Lane and the path that goes some 75 feet up the subject property to the mouth waters of the feature known as the DuBois Spring. His deed states his children's children have rights to those waters not only on his property but on all his other parcels along Closter Dock Road as well. Mr. McCaffrey opined if Mr. Incontro were to trace his deed back far enough he would find that he also has rights to the spring along with his rights that the road be maintained as an open and unobstructed right of way. He questioned if Ms. Tubman has totally researched and clarified the rights to the spring to determine if those rights have been extinguished for all of the private property owners holding deeded rights and requested documentation proving that they were extinguished. Mr. Phillips observed Mr. McCaffrey was not a party to the 1998 court decision vacating the Borough's rights which stated in part: *"if prior government approval is necessary, I will declare the spring ordinance null and void. If prior government approval is not necessary, I will hold the ordinance vacating the spring to be valid and further provide that there are no private rights in and to the spring."*

- 3) Water Runoff / Offsite Improvements. Mr. McCaffrey questioned diversion of water to the southwest corner which has always been extremely wet. Mr. Hubschman noted this was due to the slope of the water and the only other means to disperse the water might be more direct piping to the ditch behind Borough Hall. Mr. McCaffrey asked if they intend offsite improvements such as provision for a larger capacity concrete reinforced pipe under Schoolhouse Lane. Mr. Hubschman stated they would if mandated.
- 4) Setbacks, Retaining Wall, Height. Mr. Hubschman clarified the proposed poured concrete retaining wall with no decorative fascia has been moved six feet off their common property line tapering back from its five feet height at Schoolhouse Lane. The building setback on the westerly side is 20.25 feet. The height is 32 feet.
- 5) Sanitary Sewer Line - Right to Use and Easement.

Mr. McCaffrey asked if other property owners can tie into the line. Ms. Tubman stated no, it will be a private deed restricted line. Their connection requires a DEP application and an amendment to the Northwest Water Quality Management Plan, a process they began in 2000. Mr. Phillips stated any approval would be conditioned upon no other connections being permitted. Mr. McCaffrey asked if there is precedent in New Jersey for a private sewer line in a public roadway. Mr. Phillips was not aware of any adding Judge Harris was cognizant of the issue in 2003 that if you are putting it into a public roadway 1) is there a requirement that you compensate the municipality 2) are there sections of the roads in Alpine over which this sewer line will be installed that are, in fact, owned by the adjacent property owners whose property goes to the middle of the road. For example if you dedicate a road by map or by deed then clearly the public has rights and the Borough has rights vertically. If it is a road that is created by prescription, that is people traveled over it for 100 years and the public has a right to continue to travel over it, the question to be answered is does that vitiate the ownership of the property owners who may still own to the middle of the road. At least one member of the Board has such a middle of the road deed and has therefore recused himself. There's a question of whether or not the applicant would have to go to that private property owner and get a private easement; a legal issue that cannot be answered at this time. Mr. McCaffrey believed his is also such a deed. Mr. Phillips noted this is not that unusual with older deeds in older communities.

Being no further public questions, the Board took a brief recess from 9:12 to 9:25 p.m. and resumed with questions from the Board engineer.

Mr. Vander Veer asked Mr. Hubschman to respond to the following questions and concerns:

- 1) Manufactured storm filter. Mr. Vander Veer clarified statements that the storm filter device may be DEP approved but that approval does not relate to its use on this particular site. Mr. Hubschman's design is for an online system. The State certification applies to use in an offline system. Mr. Hubschman will check with the manufacturer. Per Sheet 12 he feels he complies but may have to add a bypass manhole. Mr. Vander Veer advised Best Management Practices indicates the bypass has to be a diversion upstream from the chambers. This will have to be changed.
- 2) The size of the chambers at either end of the 42 inch diameter pipe as shown on the plan does not agree with the report calculations. Mr. Hubschman will revise.
- 3) DEP noted the ditch is to remain undisturbed. Any modifications within the drainage ditch, treatment at the point of discharge or similar type work will require further DEP review and approval. Construction work including site grading and retaining walls takes place within a few feet of this ditch and he questioned how this will be accomplished without disturbance of the ditch. Mr. Hubschman envisions constructing the wall first so they can work forward from the other side of the property.
- 4) The parking plan has reduced four common parking spaces to three. With no on street parking Residential Site Improvement Standard require 0.5 spaces per unit equally 3.5 which rounds up to four spaces for this site. Mr. Hubschman explained they had removed a space they thought could create a variance situation. Mr. Vander Veer opined the provision has always been for four; even that is pushing the minimum for townhouses of this size.
- 5) Additional information is required for the generator. Mr. Hubschman stated they would comply. Mr. Phillips noted this includes provisions for setback, post installation testing and prohibitions exercised during certain hours.
- 6) Sanitary Sewer line. Provision of a DEP Flood Hazard Area permit will be required for where the force main crosses two culverts en route to its terminus in Wilson Drive. Mr. Hubschman thought he only needs approval not a permit but will check into it.
- 7) Underground fuel tank. Mr. Vander Veer asked if they investigated whether there's an underground fuel storage tank on this site. Mr. Hubschman did not know. They will have to evaluate.

Raymond Virgona, of Virgona & Virgona Architects/Planners 115 River Road #1031 Edgewater, NJ was sworn, testified as to his qualifications and deemed an expert in the fields of architecture and planning.

Mr. Virgona referred to his plans consisting of Sheets SK-1 through SK-2 dated 5-1-2012 with a latest revision date of 1-2-2013 which were marked **[Exhibit A-5]**.

Referring to Sheet SK-1 (Closter Dock Road and Front Elevations) Mr. Virgona described the proposed site development consisting of three buildings, two of which face Closter Dock Road with the third behind the A building as shown on the left. There are three types of townhouse units: four A's, two B's and one C. An A type and a B type unit face Closter Dock Road. In keeping with the historic district requirements the facades have been re-designed from colonial to a more vertical Queen Anne style with a mainly brick veneer and precast accents using all high quality materials and finishes. The bay windows have copper roofs and have been shortened to a window seat level. The B unit matches but with slightly different characteristics including a chimney element on one side and square bay window as compared to the A unit's angled bay window. The Closter Dock Road elevation shows the correct relationship of the buildings to each other with the entrance drive between the two. The Front Elevation: West Building depicts the one C unit between two end B units. All units will have two car garages and decorative features such as the bay windows, precast copings and trim, some stone accents and a shingle type roof simulating slate keeping within the reddish color palette. The units step down in conformance with the natural slope and the lowest elevation is shown as Front Elevation: East Building which houses A units. They call this the front but the entrances are on the sides.

Sheet SK-2 shows the rear elevations for the West and East buildings include rear decks. Topography allows walk-out basements for two of the three westerly units.

Sheet SK-3 depicts the typical floor plan for each type of unit. Mr. Virgona walked the Board through a description of each. All units have 3,500-3,800 square foot of living space not counting garages and basement. Each type is configured a little differently but all have a two story entry foyer, elevator, two-car garage, living room, family room, dining room, kitchen with eating area and on the second floor, three bedrooms each with their own bath and walk in closets. The C unit is the largest and the only unit where the garages are in the basement as the other units incorporate garages into the first floor level. In addition to the garages, the lower level of the C unit is shown to include a laundry room, mechanicals, bathroom and finished recreation room opening to an outdoor patio. For zoning purposes Closter Dock Road is the frontage, the side yards are east and west and the rear yard faces Schoolhouse Lane.

The meeting was opened to the Board for questions of Mr. Virgona and addressed the following:

- 1) Proximity of deck features to side property lines. The Board requested clarification comparing the location and details for the decks on both the architectural and engineering plans. While noting a deck may be allowed as a projection into a side yard, the Board questioned having high decks come that close to a property line from a design of point of view; it doesn't seem right. Mr. Virgona offered the side yard is a little over twenty feet wide. He didn't recall the exact dimension for the deck but stated there is no restriction; the deck will be at least ten feet if not more from the property line and the neighboring yards are heavily landscaped. Mr. Virgona clarified the proposed decks would be open slat wood construction supported by columns.
- 2) Chimneys. The Board requested clarification comparing the location of the chimneys on both architectural and engineering. Mr. Hubschman noted they are not included in building coverage. The Board noted the architectural drawings give the appearance of masonry. Mr. Virgona advised no, they are made of metal and extend to the ground for the B units, but not the others.
- 3) Occupancy. The Board noted from Mr. Virgona's testimony the aggregate bedrooms total 21, bathrooms total 7 half baths, 21 full baths and basement roughing potential for 7 more full baths. They figure two people per bedroom or 6 per unit for occupancy.
- 4) Calculations of height and number of stories, particularly Unit C.

A basement as an area where more than 50% is below grade so referring to Unit C, the Board questioned how a level with a garage opening on one side and a patio opening on the opposite side constitutes a basement; this appears to be a three story building in the middle of the structure. A lengthy discussion ensued. Mr. Virgona calculated height based on the average existing grade at each corner of the building as shown on the plans using the building as whole, not

individual units. The Board questioned if a three story structure would require a sprinkler system and two means of egress from the second floor but Mr. Virgona disputed replying he's built 100 of these units using IRC (International Resident Code) and it has to be a Type 5A construction. The Board questioned the height differential from the ground to first floor of Unit C. Neither Mr. Virgona nor Mr. Hubschman could provide the measurement but opined 5-6 steps are proposed. The Board noted the grade shown on the architectural plan does not appear consistent with the engineering plan as no additional steps are shown on Sheet SK-1's Unit C to depict how they will make up the grade differentials to the driveway. They asked if the plans could be coordinated to more accurately reflect the proposed grading.

The Board questioned as to whether a third story is permissible where Mr. Phillips noted the COAH-1 zone does not restrict the number of stories. The Settlement Agreement required the Borough to amend its ordinances to be consistent with the agreement. The Schedule Limiting Height and Bulk of Buildings in the Settlement Agreement for the COAH-1 zone stated maximum seven families per lot, 47,000 square feet area required, 200 feet width, 35 foot front building setback, 20 foot rear building setback, 20 feet each side building setback and maximum height 35 feet. There are some restrictions with regard to distance between the buildings and there's the 30% maximum building coverage. Two parking spaces per unit required.

The Board sought clarification if height pertained to each unit or a whole building. Ms. Tubman stated the settlement agreement provided height per building. A lengthy discussion ensued to further clarify how the height was calculated noting the second floor ceiling of Unit C is 27 foot before attic or roof are added in; how will they come in under 35 feet? Mr. Virgona stated he measured elevations at the existing grade of the four corners of the building and used the average of the midpoint of each of the roofs using the lowest plate and the highest peak to determine the average height of the structure. Unit C may be higher but the others are lower and using the average they will comply. The Board remained concerned with the height of Unit C, particularly as it would appear from the rear. Mr. Phillips read from Borough Ordinance 220-2: "*Height of Building. 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. The average original grade of the proposed building shall be the average of the reported original grade elevations for all corners and entrances of the proposed building. Excluded from the calculations of building height shall be chimneys, steeples, hand rails for widows walks and other architectural features that are not greater than 4 feet in height and which occupy no more than 5 feet of the total roof area.*"

Mr. Vander Veer noted the uniqueness of the structure. Where a traditional single family residence may have varying roof peaks it would still have only one plate; here you have several. If you take the highest peak and the highest plate that would give you the highest midpoint and then compare that to the average grade around the building. Mr. Virgona offered that would only be the average for the highest unit. The Board noted they're not looking at one unit but the mass of a large building and asked Mr. Virgona to provide the Board engineer with his calculations for review. Entrances as well as corners have to be included in the calculation.

Being after 10:10 PM, the Board deemed this a good point to conclude this evening's proceedings

A motion to carry this matter to the next regularly scheduled meeting at 7:30 PM on Tuesday, February 26, 2013 was made by David Andrews and seconded by Gayle Gerstein. All were in favor.

Mr. Phillips advised this serves as notice and the public will receive no further notice.

COMMUNICATIONS:

Notice of Certification of Soil Erosion & Sediment Control Plan: Drut, Block 79.01 Lot 3. Duty noted: no comments.
Notice from County of Rockland re: Lamont-Doherty Core Lab renovations. Duly noted; no comments.

FINANCIAL REPORT: The Planning Board's budget for the year 2012 was \$10,000; total expenditures were \$1,370. Since no major expenditures are anticipated for this year, a motion was made by Mayor Tomasko & seconded by David Andrews to propose a \$10,000 budget to Mayor & Council for 2013. All were in favor.

2013 CALENDAR: The 2013 Calendar was approved as presented. Meeting dates are as follows: 1/22, 2/26, 3/26, 4/23, 5/21, 6/25, 7/23, 8/27, 9/24, 10/17, 11/21, 12/19.

<u>BILLS:</u>	Sills Cummis	\$ 200.00	Appearances - December
	Sills Cummis	\$ 200.00	Appearances - October
	Sills Cummis	\$ 751.29	COAH
	Sills Cummis	\$ 120.00	Alpine Three

A motion to approve the above referenced bills was made by Gayle Gerstein and seconded by David Andrews. All were in favor.

COMMITTEE REPORTS:

Northern Valley Mayors & Planners Assoc.: The Mayor reported that the next meeting will be held on January 31st. The speaker will be the new president of Orange & Rockland

Board of Health: A meeting will be held on Feb. 12th.

Environmental Commission: The Commission met almost two weeks ago and did one inspection on Robin Lane, which was approved with conditions.

Building Department: The reports were distributed. There were no comments.

NJ Transit Update: No report.

COAH Update: No report.

The Mayor commented that he appreciated the thoroughness and diligence exhibited by the Board Members tonight.

ADJOURNMENT:

A motion to adjourn the regular Planning Board meeting was made by Mayor Tomasko and seconded by Gayle Gerstein. All were in favor. The meeting adjourned at 10:20 PM.

Respectfully submitted,

Marilyn Hayward
Recording Secretary