

ALPINE PLANNING BOARD

Alpine Borough Hall
100 Church Street
Alpine, New Jersey 07620

MINUTES

May 21, 2013

CALL TO ORDER/PUBLIC ANNOUNCEMENT: The Planning Board, Borough of Alpine, convened in regular session on Tuesday, May 21, 2013 at 7:30 P.M. Chairperson 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, May 21, 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.

Hearings end at 10 PM.

ROLL CALL:

Members Present:	Chairperson Catherine Parilla	Jeff Fromm
	David Andrews	Gayle Gerstein
	Lorraine Mattes	Ralph Mattes
	Mayor Paul Tomasko	Martin Cybul, Alt. II

Members Absent:	Catherine McGuire	David Kupferschmid, Atl. I
-----------------	-------------------	----------------------------

Staff Present:	John Phillips, Board Attorney	Gary Vander Veer, Borough Engineer
	Marilyn Hayward, Recording Secretary	Rob Kasuba, Special COAH Counsel

APPROVAL OF MINUTES OF APRIL 23, 2013 REGULAR MEETING: A correction was made on page 1 to include William Robinson as present for the April 23rd meeting. A correction was made on page 10 to state that the bills were approved, not carried. A motion to approve the minutes of the April 23, 2013 Regular Planning Board meeting with the corrections noted above was made by Ralph Mattes, seconded by David Andrews and carried by those eligible to vote. Mayor Tomasko abstained as the bulk of the minutes concerned a matter he had recused from. Having not attended Jeff Fromm did not vote.

OPEN TO PUBLIC (NON-AGENDA ITEMS): No comments.

CONTINUED APPLICATIONS: Request for Amended Preliminary Site Plan and Soil Moving Permit Approval: Alpine Three, L.L.C., Block 43 Lots 6.01, 6.02, 6.03 (Carried from April 23, 2013).

As per the prior hearings Mayor Tomasko recused. The Board received documents from the Applicant prior to this hearing as noted in a letter from Michael Hubschman of Hubschman Engineering dated May 10, 2013.

Appearing for the Applicant is Lloyd H. Tubman, Esq. of Archer & Greiner, PC, Plaza One, 1 State Route 12, Suite 201, Flemington, NJ 08822 along with witness Michael Hubschman, PE, PP, Hubschman Engineering, 263 A. S. Washington Avenue, Bergenfield, NJ.

Appearing as the Board's Traffic Consultant was Gordon Meth, PE, PP, PTOE, PTP of The RBA Group, Inc. 7 Campus Drive, Suite 300 Parsippany, NJ 07054-4495.

Regarding the transcripts, Attorney Phillips noted that the last three transcripts are labeled volumes three, four and five, but his records indicate a total of only four transcripts. Attorney Tubman advised that there is a transcript of the December 18, 2012 hearing, although the matter was carried to January 22, 2013. A copy of the December transcript will be forwarded to Attorney Phillips.

Attorney Phillips clarified the Hubschman Engineering plans received to date as noted in Mr. Vander Veer’s letter dated May 2, 2013 Appendix A consisting of a set of 12 pages Drawing No. 495-1 through 11 plus 495-21 and a second set of 7 pages Drawing No. 495-14 through 19 plus 495-22. The latest revision of the drainage report is #7.

Exhibits marked during the course of tonight’s hearing:

Board’s Exhibits:

- B-8 Letter dated 5/20/2013 to the Board from Gordon Meth, P.E., P.P., PTOE, PTP, of The RBA Group, Inc. Traffic Consultant to the Board
- B-9 Memorandum dated May 7, 2013 to the Board from Robert A. Kasuba of Bisgaier Hoff, LLC, COAH Consultant for the Borough

Applicant’s Exhibits:

- A-11 Grading, Drainage & Utility Plan, Sheet 495-3, prepared by Michael Hubschman, PE, PP dated 7-13-1999 latest revision 29 dated 4-5-2013, submitted previously, with re- colored renderings.
- A-12 RSIS Standards NJAC 5:21-4.16; date/version unknown

Ms. Tubman stated as questions pertaining to the various aspects of drainage were raised at just about every meeting she will lead their engineer through a series of questions designed to give a complete picture.

Michael Hubschman, PE, PP, Hubschman Engineering was sworn at a prior hearing. Attorney Tubman began by asking how the stormwater presently flows across the subject property. Referring to Exhibit A-11, Mr. Hubschman stated current stormwater runoff sheet flows from the northeast corner to the southwest corner of the property and an existing ditch that runs along Schoolhouse Lane. From there it goes under the road through the 12” pipe and through the point discharge to another small ditch that runs behind the Borough Hall.

For development they have to address three stormwater issues: quantity, quality and recharge. They meet these standards.

- 1) Quantity will be controlled by collecting all of the runoff with five 42” diameter pipes and most of the site is drained by a series of four and six inch pipes that serve to collect, meter and filter water from the entire site.
- 2) Quality will be controlled by storm filters that remove the solids and clean the water.
- 3) Recharge will be provided by a series of small shallow seepage pits.

Curtain drains are proposed along the easterly property line, curbing and foundations and connect into structure #3 bypassing around the detention basin to lower the groundwater on site. They discharge to daylight at the southeast corner. Presently there is no groundwater management or runoff control on site. A well is piped across the property. The cumulative effect of the detention & curtain drains will reduce runoff, in accordance with regulations as follows:

	<u>Presently</u>	<u>Proposed</u>	<u>New DEP Regulation</u>
2 year storm	1.4 cfs *	0.7 cfs	50% of existing
10 year storm	2.0 cfs	1.5 cfs	75% of existing
100 year storm	2.8 cfs	2.16 cfs	80% of existing

* cubic feet per second

Soil testing to determine infiltration feasibility. Mr. Hubschman reported 40-50 test pits have been done. Johnson Soils Engineering performed permeability testing as shown in the Drainage Report Section 9. The permeability rating is K-4 which is above average where K-0 is rated unsuitable and K-5 is the best soil.

RSIS Standards, DEP/Alpine Stormwater Regulations. The old regulation required “no increase in runoff.” New regulations require them to comply with the new (2004) regulations as noted above to reduce the chance of flooding.

Quality. They have to provide 80% TSS (Total Suspended Solids) removal. The storm filters serve this purpose. There are only about ten devices certified by the State and theirs is one of them.

Recharge is a State requirement. For 1 year the rainfall recharge has to equal what exists versus proposed.

Opened to the Board for questions

For Chairwoman Parilla, Mr. Hubschman explained that a curtain drain is perforated pipe with crushed stone and filter fabric around it to collect groundwater. It would be placed atop the bedrock on the easterly portion of the site, about 5 – 6 feet deep. Chairwoman Parilla questioned this location when the water flows to the opposite corner. Mr. Hubschman replied footing drains will pick up any additional groundwater.

For Mr. Mattes, Mr. Hubschman explained his reference to curbing drainage referred to the two drains at the end of their internal access road. There are no drains along Schoolhouse Lane. Mr. Mattes questioned direction of sheet flow from northeast to southwest as Mr. Vander Veer's report indicates the sheet flow to the ditch runs along the entire rear line of the property. Mr. Hubschman stated the contours are a little diagonal but acknowledged Mr. Vander Veer's description is accurate. Mr. Mattes asked Mr. Hubschman to clarify the ten points under the section on Stormwater Management System as raised in Mr. Vander Veer's letter of May 2. Mr. Vander Veer pointed out these are new comments. Mr. Hubschman provided corresponding comments as follows:

- 1) DEP LOIs do not address "spring": Informational. Mr. Hubschman feels this was already addressed.
- 2) Compliance with N.J.A.C. 7:8 Stormwater Management. Informational. Mr. Hubschman noted he just addressed this and also explained in writing under Item 7 in his Attachment I dated 5/10/13.
- 3) Extensive Maintenance Plan Required per NJ Best Management Practices Manual (NJ BMP) Chapter 8. Mr. Hubschman stated the maintenance provisions provided in the Drainage Report are the actual approved maintenance provisions as approved by NJDEP and therefore supplemental material should not be required.
- 4) – 6) Informational.
- 7) Seepage Pit compliance. "Based on test pit data, seepage pit installations will not be a minimum of two feet above seasonable high water table elevations per N.J.A.C. 7:8 and NJ BMP." Mr. Hubschman stated the seepage pits will be installed in compliance with the requirement per prior testimony and correspondence.
- 8) *skipped*
- 9) Point Discharge. The "inclusion of underground water conditions to the same point of discharge [as the stormwater collection] elevates the runoff quantity and rate of runoff above that which has been calculated to show compliance." Mr. Hubschman disagrees and stated they previously addressed. There is no portion of the curtain drain directly connected to the detention system. Runoff from the well will be contained within the current drain.
- 10) Weir Readings. Mr. Hubschman took one additional reading on May 8: 3,032 gal/day which was actually low considering it was right after a rainy day. Prior readings can be found in Section 15 of the drainage report. Readings varied March to May from 1,900 to 21,861 gal/day. The high reading was hours after a heavy rain in March and represents about 1.4% of the runoff from the site during a storm.

Board members requested clarification of his comment that "the runoff from the well will be contained within the current drain." Mr. Hubschman corrected the corner of Unit 5 is directly on top of the well. They will divert that water through the footing drains and the curtain "French" drains along the east. They will not directly pipe it. They assume the drains will pick that water up. The drains are about 5 – 6 feet deep. The basement floor footing drain will be about five feet lower than the spring. If the curtain and footing drains don't pick up the water they will add something to pipe it into the footing drain. For Attorney Phillips, Mr. Hubschman clarified the depth measurement he used was from the surface discharge of the spring. He has only visually inspected the spring and has not tested to determine where the bottom is.

For Mr. Cybul, Mr. Hubschman noted Johnson soil tests were performed in 2002. Test Pits #1 and #2 were done on the lower southwestern portion of the site about ten feet apart to determine permeability. Permeability is basically the perc rate of soil measured as inches per hour. They found 72% sand 26% silt and 2% clay or, in layman's terms, loamy sand. He is not aware of any other permeability testing and was not present for all test holes but observed soil in the northwest pits appeared to be a similarly sandy soil. They have to be two feet above groundwater for contamination reasons and the

soil sample was taken above groundwater. Mr. Cybul questioned how they would monitor outflow and quality if these calculations are inaccurate based on actual site conditions. Mr. Hubschman stated outflow measurement is possible but not required. Quality control is not tested but the system has required maintenance and post storm inspections. The trigger where monitoring would be required would be a National Pollution Discharge permit which usually pertains to industrial type projects. It has never been required for his other larger townhouse projects. The closed detention system is really a minor component of the equation draining a few of the roof leaders; it fills up and meters water out. They test during construction to ensure it works. Mr. Cybul questioned if there is provision for overflow? Mr. Hubschman advised only within the weir which allows about a half foot of extra storage. Mr. Cybul asked what happens when that capacity is exceeded. Mr. Hubschman replied it wouldn't because a hundred year flow is less than the capacity of the weir.

Mr. Vander Veer questioned a worst case scenario such as clogging of the structure outlet. Mr. Hubschman offered the tank would fill, go over the second orifice or the weir and to the ditch. The outlet has a steel trash rack in front. The design meets RSIS standards. Excessive water would flow through a secondary weir. Mr. Hubschman referred to Sheet 12 [Drawing 495-21 Stormwater System Detail], a blow-up of the rear drainage to demonstrate flow from two structures of Structure #2 to the outlet structure via a 12 inch pipe. The water is piped to Drainage Structure #3 and from there to the ditch. Attorney Phillips questioned emergency overflow. Mr. Vander Veer noted while the grate serves that purpose, if water ever comes out of there it indicates the system is in failure; maintenance is supposed to protect against that. Mr. Hubschman insisted the pipe would not clog and cause flooding. They have designed the same system elsewhere in town. Ms. Mattes made the point that scenario occurred uphill from her property. Mr. Hubschman stated it is not likely here and they focused on more realistic problems such as runoff jumping the basin at the end of the driveway and flowing down the stairs. That is why they propose curbing there to prevent this from happening. Mr. Cybul recapped his understanding that if there was a failure, water would flow up through the lowest grate, and that is something that can be monitored.

Attorney Phillips referred to the Composite Map of Test Hole data [A-8]¹ to review 4 test pits immediately surrounding the well: #24, #25, #27 and #4. Of those, #25 and #4 which are below the well are shown as dry and there is depth to groundwater in #27 and #4. To the east is #26, #23, and a number of others which are all dry. Where is the water coming from for the well if these intermediary test pits are dry? Attorney Phillips questioned Mr. Hubschman's prior testimony that water flows from northeast to southwest appears inconsistent with 1986 and 1997 test pit data, in which case this would not appear to be underground sheet flow but rather flow from underground fissures. Mr. Hubschman couldn't comment on Mr. Ralston's test pit data. Attorney Phillips asked if all the test pits to the east of the curtain drain are dry, what are they cutting off? Mr. Hubschman maintained they anticipate groundwater coming from that area and the footing drains. The unit is right over the well and they will divert that water.

Mr. Vander Veer questioned Mr. Hubschman's response to Item 3, page 7 of his May 2, 2013 letter requesting supplemental material regarding the maintenance plan, per Chapter 8 of the NJ Best Management Practices Manual which goes into more detail than what Mr. Hubschman provided to date. Although the device may be DEP approved the maintenance plan must provide additional information on workers' safety, equipment needed, cost estimates for maintenance, etc. Mr. Hubschman has no problem providing the material but noted information he provided was State approved and the NJCAT Certification states "the following are the minimum maintenance requirements."

Mr. Vander Veer recalled Mr. Hubschman's testimony that the foundation drain and curtain drains would bypass all of the detention system and connect directly to the discharge manhole into the roadside ditch; an unknown factor as they have no idea right now what the curtain drain might intercept. Mr. Hubschman affirmed adding they anticipate picking up ground water from that area into the piped system directed to the southwest corner. Mr. Vander Veer noted piping results in a significantly quicker trip than sheet flow. Mr. Hubschman conceded it is an unknown but offered the early test pit data indicates it could be dryer. They will pick up a lot of the ground water running on top of the rock.

Mr. Vander Veer questioned Mr. Hubschman's response to his Item 7 as November 2012 standpipe data indicates groundwater close to existing surface proximal to the proposed seepage pits locations; they would not be the minimum two feet above the seasonably high water table needed to comply with N.J.A.C. 7:8 and NJ BMP. Mr. Hubschman stated

¹ A – 8 Composite Map of Soil Test Holes revised through 12-13-2012 [prepared by Michael Hubschman, PE, PP] marked at the March 19, 2013 meeting.

they will dig test pits at the proposed locations, monitor the function and adjust as needed, as they do for any job. He opines after the foundations are constructed the groundwater will stabilize. Mr. Vander Veer noted this job is different as they already have concrete evidence the groundwater level is very close to the proposed location of the seepage pits and their design can reflect actual information. As designed it is not in compliance. Mr. Hubschman disagreed restating they will handle this during construction, if at all required, per the normal course for this type of a system. Mr. Cybul persisted in asking how they would install a compliant seepage pit based on the known information. Mr. Hubschman responded if groundwater is very high behind Unit 6, there are other locations that may be suitable such as between Units 3 and 5. The recharge requirement is a minor part of the whole design. It's not uncommon to adjust during construction. The system as designed will work. They are going 3-4 feet deep. He does not feel the standpipes were properly installed. Mr. Cybul asked if they have proof. Mr. Hubschman stated test pits done 2002-2004 with NJDEP revealed much lower groundwater.

Open to the public for questions:

Richard Incontro, Schoolhouse Lane, questioned existing elevations of groundwater, the wall, spring output pipe, volume of runoff, definition of a 100 year storm, and permission to cover the spring or divert "Waters of the State".

Mr. Hubschman noted standpipe measurements were from surface to a foot down; he did not know the elevations. The wall at Schoolhouse Lane is five feet high. The elevation there starts at 425.5 and goes to 426 feet. The 6 inch outfall pipe from the spring is at elevation 423.3 feet. Mr. Incontro recalled testimony that the spring water was 1.4% of the total runoff to ask where the other 98% of water goes. Mr. Hubschman reviewed earlier testimony on weir readings and clarified calculations regarding the measurement of flow rate. The seepage pits will hold 29,700 gallons. The max output of the well was measured at 21,800 gallons a day. He explained a 100 year storm is the probability a storm will occur once per hundred years. He is not sure when they got permission to cover the spring but recalls it was covered with a broken metal plate and they put concrete planks over it for safety purposes. They did not need permission to divert. Ms. Tubman reminded they are not "Waters of the State" per DEP's LOI. Mr. Incontro recalled their DEP submission labeled the feature an "abandoned well." Chairwoman Parilla asked if someone can divert a spring on their property. Ms. Tubman stated if it is not a regulated feature it can be diverted. Attorney Phillips stated questions remain as to whether it is a regulated feature and/or did DEP determine it is a non-regulated feature?

For **Hal Shaw**, Mr. Hubschman affirmed they have never proposed a curtain drain for the west side. Mr. Shaw recalled his engineer disputed Mr. Ralston's 1986 test pit data to question whether he should really use those numbers.

John McCaffrey, neighboring resident, noted maps on file in the County, dating back over 100 years, identifies the feature as a spring to question whether that isn't sufficient to designate it as a spring and spring waters. Ms. Tubman responded she has no idea of those maps but is aware of a court decision they provided during these hearings vacating that. Attorney Phillips clarified the court vacated public rights in the "spring" as opposed to public rights in a "well". He further noted it did not vacate the spring but only certain rights to use the spring. Mr. McCaffrey questioned why there hasn't been more DEP regulation on this spring where there has been on other springs in town. Chairwoman Parilla noted that is a question they have been wrestling with as DEP appears to have based their LOI on what was submitted to them as "an abandoned dry well". Mr. McCaffrey asked who prepared the submission for the LOI. Ms. Tubman explained the property owner provides a plan, the DEP sends a reviewer out to the field to inspect and identify both wetlands and Waters of the State. They identified an isolated wetland on the site but no regulated feature. Attorney Phillips asked Ms. Hayward to obtain a copy of that DEP submission. It should be on file in the Clerk's office.

Richard Incontro, asked if Mr. Hubschman read the deed dated September 29, 1986 between Alpine III and the prior owner. Mr. Hubschman offered probably but he doesn't recall. Mr. Incontro asked if the deed talks about the spring. Chairwoman Parilla believed it does. Mr. Incontro affirmed when Mr. DuBois sold the lot in 1823 he mentions the spring. As a blacksmith it also had commercial use. Attorney Phillips wryly noted that prior nonconforming use has expired.

Being no further from the public questions, Ms. Tubman offered that would conclude their engineering testimony. The Board wished to question Mr. Hubschman further while he was present.

Sanitary Sewer Line Ms. Mattes wished to review the proposed sanitary line in the context of Mr. Vander Veer's reports and samples of pipe she purchased. She displayed a 4 inch diameter pipe, as required for her septic system and a 2 inch

diameter pipe as proposed for the sanitary sewer line. She noted the proposed line would be gravity fed through multiple bends and connections, two feet underground where three feet is required and would need to service a number of people in 7 units with 21 bedrooms. She recalled major problems arose when Kiku restaurant's pumped system failed. She asked how a two inch line could be adequate. Ms. Tubman saw no need to have the samples marked. She reminded this application is only for amended preliminary site plan approval. The only issues before the Board are architecture, stormwater management where rules changed since the last resolution, and re-routing of the sanitary sewer pipe to Closter Dock Road because they can't cross municipal Green Acres property. The sewer line location was covered at the first hearing. The rest of the line, from Closter Dock Road on, is a matter for the DEP and the Governing Body. Chairwoman Parilla noted property owners along the entire line were noticed. Ms. Tubman responded that was an exercise in caution by Attorney Phillips. To date, neither she nor Attorney Phillips has discovered any applicable case law. Chairwoman Parilla questioned the Governing Body's 2012 resolution of declination to consent to Amendment to the Wastewater Management Plan. Ms. Tubman reminded that matter is also not before this Board adding DEP considered that resolution and responded in writing that it added nothing new. Therefore, they approved the Amendment subject to certain conditions including Alpine Planning Board approval of the functioning of the stormwater system.

Mr. Cybul questioned if they initially presented the line as a forced main where it is now proposed as a hybrid system meaning a forced main to a point and then gravity. Ms. Tubman did not know. Mr. Cybul asked if they may find they need a three inch or 4 inch line. Ms. Tubman has only seen the two inch line in all of their documents and approvals; they are not proposing to change that. Mr. Hubschman clarified they propose a two inch force main for the entire length with vacuum break manholes along the way. They pump up Closter Dock Road and then downhill along Church Street and Hillside Avenue. The wet well is designed for about half the volume of the force main and every surge will be about half the volume of the force main. There is a vacuum break and then it does flow by gravity down towards Hillside Avenue but it's still a pressurized pipe. Mr. Cybul offered the concern for both stormwater and sanitary are backup into the basements. They have to be designed properly because there's very little recourse after the fact. Ms. Tubman noted the prior approval required a Maintenance Bond and a Developer's Agreement to make sure the pipe is maintained and repaired if necessary.

Mr. Mattes asked Mr. Hubschman how long it will take to build the 7 units and separately, the sewer pipes, noting construction will disrupt the three main arteries of the town. Mr. Hubschman explained they use fusion welded polyethylene pipe so there will be minor disruption as they work their way up the hill. He estimates the line will take about two months and the site work probably more than a year. These jobs would be done simultaneously.

Gordon Meth, P.E., P.P., PTOE, PTP, of The RBA Group, Inc. Traffic Consultant to the Board was asked to summarize his letter dated May 20 [B-8] and acknowledged he remains under oath. He touched on the time traffic stopped in front of the driveway during peak hours, crash data, alignment and visitor parking. Mr. Luglio was not present to speak to the revised information presented.

Capacity Analysis He did a capacity analysis combining intersection analysis data he received from Mr. Luglio after the last meeting with his traffic counts. He observed traffic effectively stopped for 35 minutes in front of the proposed driveway during AM peak. Mr. Luglio's analysis techniques assumed free flow of traffic and did not properly take stopped traffic into account. Mr. Meth used videotape to estimate the actual delays at Main Street were 35 seconds, about double the analysis technique finding. The change made by introducing new movements increased delay by 15-16 seconds. This changes level of service. There should be more discussion regarding impact of the additional traffic from the development.

Crash rate Mr. Meth provided additional data on crash rate, double the Statewide average for roads of this type. He reviewed data from 2009 – 2011 for 500 feet in either direction of Main Street. About half of the 21 crashes occurred during peak hours 7-9 AM or 4-6 PM. This may be one of the few four-way intersections on Closter Dock Road in Alpine if not the only one. One may argue it's just a driveway but it will have traffic comparable to Main Street and should be considered more of a street. There should be more discussion on what impact the development may have on safety in the corridor.

Offset Mr. Meth believes the offset is a potential safety problem. There should be further investigation to see if the driveway can be better aligned with Main Street.

Visitor Parking Mr. Meth recalled lengthy discussion of visitor parking at the prior hearing. Three visitor parking spaces are proposed. He interprets RSIS to require 0.5 spaces per unit or 3.5 which means > 3 or 4 spaces. Since the last meeting he discussed his interpretation with Janice Tully, Professional Planner for Montclair and a member of the Site Improvement Advisory Board. She agreed with his interpretation that rounding referenced in RSIS is specific only to the total number of units and not the component of the visitor spots. The only way around this would be for the Board to grant an exception from RSIS. He reviewed RSIS exceptions that read “*municipal approving authority may grant by resolution of the Planning Board or Zoning Board of Adjustment such de minimus exceptions from the requirements of the Residential Site Improvement Standards as may be reasonable and within the general purpose and intent of the standards if the literal enforcement of one or more of the provisions is impractical or will exact undue hardship because of peculiar conditions pertaining to the development in question.*” Mr. Meth offered the Board needs to ask itself if that exists in this case. The RSIS goes on: “*municipal approving authorities granting of a request for a de minimus exception shall be based on finding that the requested exception meets the following criteria:*

- *is consistent with the intent of the Site Improvement Act*
- *is reasonable, limited and not unduly burdensome*
- *meets the needs of public health and safety and takes into account existing infrastructure and possible surrounding future development.*

The Board has to ask itself if there are other areas to accommodate this missing visitor’s spot and he does not believe there is public parking anywhere near this site.

Open to the Board for questions

Line of Sight Mr. Cybul reminded he had requested a scaled drawing showing line of sight. Ms. Tubman stated that was already provided. Mr. Cybul reminded that drawing was not to scale and Mr. Luglio said he would provide. This has not been received. Ms. Tubman offered if that is the case, it is her oversight of the transcript and they will respond in writing. They are not going to bring Mr. Luglio back. Mr. Cybul elaborated on the problem with line of site from Main Street looking east. As you reach the level of the church the road falls off precipitously such that you cannot see a car coming up the other side until it hits the crown. People come up fast and then have to decelerate if they see something in front of them. Ms. Tubman replied this is an existing condition. Their responsibility is to demonstrate cars can enter and leave their site safely. The County is responsible for the intersection and has given conditional approval. She has heard no testimony contradicting Mr. Luglio’s conclusions that the access is safe. Attorney Phillips recalled Mr. Meth’s testimony regarding the offset or nonalignment with Main Street. Ms. Tubman read the RSIS standard noting it actually says, “*new intersections along one side of an existing street shall, if possible, coincide with any existing intersections.*” Mr. Cybul realizes line of sight involves an existing condition but requested documentation to verify the dimensions used by Mr. Luglio in his calculations were correct. Ms. Tubman stated they will provide the scaled drawing. Mr. Meth recalled Mr. Luglio’s report indicated 480 feet which is consistent with the direction mentioned and does provide adequate safety.

Offset For Attorney Phillips, Mr. Meth recalled the proposed offset is 12-13 feet or at least a lane width. The proposed driveway is roughly in the middle of the site. He cannot comment on site design. Mr. Hubschman stated they have limited room to move it. Mr. Cybul offered they’re predicating that decision based on a finished product where they could reconfigure the site design. Mr. Hubschman stated this is the settlement drawing. The Board quickly corrected there was no settlement drawing. Ms. Tubman responded they did not reopen the application to reevaluate the units. Mr. Cybul offered they are not reevaluating the units; they are evaluating the site design. Ms. Tubman stated the site design was approved. Mr. Cybul explained if their experts are saying something is problematic and represents a health and life safety concern for the Board it is their responsibility to address that.

Crash rates Mr. Mattes obtained Closter Dock Road accident information from Police Chief Belcolle. It would appear 41% of all accidents in town occur on Closter Dock Road. In 2012, 31 of 49 and in 2011, 43 of 91 accidents occurred on Closter Dock Road, many involving trucks. Mr. Fromm asked Mr. Meth if he had accident data for a short distance on either side of the site. Mr. Meth noted the accident data he cited was within only 528 feet, a tenth of a mile, of either direction of Main Street which is the accuracy of crash reporting. He looked at 2009 – 2011, not 2012 because that is the latest set of complete annual data available in on-line databases. He found 6, 7 and 8 per year for 21 crashes over 3 years. Mr. Cybul asked if there is any way to estimate how many additional accidents might occur if Mr. Meth’s

recommendations are not adopted. Mr. Meth does not believe the science of safety is advanced enough to give that answer. There is a human element and it depends on driver diligence. What he can say, as per the last meeting, is that more vehicle conflicts are created with a 4-way intersection plus misaligning intersections potentially puts more vehicles in conflict. Mr. Cybul asked if there was any data they could rely on to verify that. Mr. Meth offered there is a new publication that quantifies crash probabilities or rates called the Highway Safety Manual but it does not have a factor for offset intersections. It does have a factor for skew or angled roads. He opined the research has not added offsets as a factor because they usually go out of their way to eliminate them.

Visitor Parking Ms. Tubman copied the Board and Mr. Meth with RSIS Standards NJAC 5:21-4.16. She marked this [Exhibit A-12]. The requirement for 3 bedroom townhouses is 2.4 spaces per unit. They provide 4 spaces per unit, two in the garage and two in the double driveways. There is a footnoted requirement that guest parking must be provided either on the street which they cannot do or in a common parking area. There is however a footnote (a) which is captioned "Parking Requirements For Residential Land Uses" that says: "*when determination of the required number of parking spaces results in a fractional space for the entire development any fraction of one half or less may be disregarded while a fraction in excess of one half shall be counted as one space.*" Ms. Tubman maintained any fraction means they are allowed to round down and they provide the three necessary spaces. She does not believe they need an exception. However, if the Board chooses to recognize the extra space in each driveway, they can grant a *de minimus* exception and notify the RSIS Board. Alternatively, they can allow them to provide that third space in a front yard setback. This was on the original plan but removed after Mr. Vander Veer pointed out it would need a variance.

Mr. Meth asked the year of her RSIS [A-12] noting it was last amended in 2011. She did not know. Mr. Meth has the 2011 version which says the same thing but he still stands behind what he said the last time, where it says "*determination of the required number of parking spaces results in a fractional space for the entire development*" he interprets "*entire development*" to mean when the result of 2.4 per unit for a 3 bedroom townhouse for that number of units results in a fractional space, that is when the provision for rounding comes into play. As previously stated he ran this by a member of the RSIS Board who agreed with him. Ms. Tubman can only say they will rely on the footnotes. There is a separate footnote next to townhouses for number of bedrooms but this is a generalized rounding for the entire top of the table. She also checked this against the administrative code.

The Board acknowledged they are dealing with two separate interpretations. Mr. Cybul offered Ms. Tubman offers only three options: a parking space in the front yard setback which would require a variance, accepting her interpretation of the code or granting a *de minimus* exception. Mr. Cybul added there should be a fourth option to add the fourth parking space somewhere on the site; this can be done. Ms. Tubman replied not without a site redesign. Mr. Meth offered the Board could also seek clarification from RSIS.

Open to the public for questions. There were none.

Robert Kasuba, Esq. was asked by Attorney Phillips to provide a summary of the background documents regarding the Alpine Three application. Attorney Kasuba has been working with Alpine on affordable housing matters for close to ten years. The first litigation involving Alpine Three was a Mt. Laurel case that preceded his personal involvement. He became involved in ensuing litigation which focused on interpretations and prior actions by this Board regarding the earlier application. He prepared a memorandum for the benefit of members who were not on the Board for the entire process. A courtesy copy was provided to Ms. Tubman. The packet consists of a 4 page summary outlining the background with copies of the actual documents referenced therein attached. This is designed to show the context of this application in the bigger picture. The exhibit was marked [A-9].

Mr. Cybul recalled Ms. Tubman's statement that the Board has limited powers of review for this application to ask if that is truly the case and what if they find a latent defect in the prior application that creates a life safety issue.

Attorney Kasuba stated Planning Boards are generally charged with enforcing the ordinances. If applications comply the Board's reviews are limited. Ingress and egress issues are definitely within their purview. It has to be safe and adequate. This issue was touched upon in the earlier application but he did not believe the offset issue of 12-13 feet was raised ten years ago. The issue then as he recalls was whether or not the driveway should be offset even further from Main Street.

He recalled Judge Harris saying while he didn't want to play traffic engineer he always thought it was better to line up the intersection rather than have it offset.

Attorney Phillips added the general rule for amendments to prior approvals is that, theoretically, the entire site is back before the Board. As noted in the colloquy between Ms. Tubman and himself at the outset of these hearings, if there are aspects of the prior approval that are not touched by the proposed modifications or by significant issues than there is no need for the applicant to replay every part of the prior submission. However, if you have a situation where because of changed conditions such as increased traffic flow, change in groundwater, etc. or someone finally noticed something that was not picked up before which may or may not have a significant impact on the approval, those are things for the Board to consider and they would be remiss in their duties not to consider a significant safety issue just because it wasn't dealt with earlier.

Opened to the Board for questions:

Mr. Mattes asked if the Borough has the right to give away the use of a street to a private user. Mr. Kasuba noted Ms. Tubman addressed this earlier noting there is no case law or clear answer on this. Attorney Phillips noted Judge Harris flagged this as an issue, an interesting question he would not rule on at the time. This issue is not yet resolved.

Mr. Fromm asked if the Board will be provided with a clearly articulated set of questions for them to address including a final question as to whether they see any other safety issues they want to discuss. Attorney Phillips noted the case is too complex to come up with a list off the top of their heads. He proposed to provide the Board, either at the next meeting or appropriate time, a list of parameters and possible conditions covering every issue he identifies from the transcripts, making sure not to lead the Board in any direction which is not his role. The Board should say yes or no in regard to each issue to establish a complete record. Ms. Tubman had no objections. Mr. Fromm asked if they could receive it in advance of the meeting. Attorney Phillips will try and would share his list of possible conditions with Ms. Tubman, too.

Chairwoman Parilla thanked Mr. Kasuba for his memo which they found very helpful.

Opened to the public for comments:

John McCaffrey, adjacent neighbor, was sworn. He is concerned with the fascia and height of the wall being just sheer concrete. He is concerned with channeling all the water to the southwest area adjoining his property which will raise the water tables on any future septic system he installs. He is concerned with the height of the buildings shading his property. He runs a garden center and his plantings could be adversely impacted. He questions the spring and how that came to be labeled a well, who documented that and submitted falsification of that to the State. He questioned the private inherent rights of other people who hold rights to that spring up and down the lane. Attorney Phillips interrupted that as indicated earlier on, the court did vacate the public rights to the spring but if an individual property owner has a private right to use that right through their deed that is an issue between that property owner and the current owner of the property; it's not within the purview of the Borough. If a private owner feels his rights are being impinged upon he has a private cause of action. Chairwoman Parilla asked if he had riparian rights. Mr. McCaffrey stated he does on several different properties that he owns jointly with his brother as do other property owners up and down Schoolhouse Lane.

Mr. Fromm sought clarification if Mr. McCaffrey's question regarding well vs. spring referred to whether by virtue of mislabeling, the state approval was mistakenly granted? Mr. McCaffrey said yes. Mr. Fromm asked if that question was in the Board's purview to ask. Attorney Phillips asked Ms. Hayward to obtain a copy of the original LOI application from the Clerk's office. If the application identified it as a spring there is no issue. If it didn't they will have to explore what options are available. It is not for the Board to decide one way or the other. He recalls Judge Harris did address something about the submission to DEP which he will have to go back and review.

Mr. McCaffrey questioned whether a property owner has the right to use the public right of way for a private sewer line and if so, do property owners along that line have a right to tie into it and if there are any cases in NJ like this. Attorney Phillips explained these are two separate issues. The Governing Body has the right to grant rights to private property owners for just compensation. He is not aware of any litigated case where a private property owner was given a right to put a sewer line in a public street and then someone filed suit. Regarding the second question, a condition of approval was

that no one else can ever tie into this line and their agreement with Cresskill limits it to just these seven units and no one else. Ms. Tubman added no Wastewater Management Plan exists for that. Dr. Andrews asked if this raises the possibility of other private lines being put in. Attorney Phillips replied that would be up to the Governing Body. It could be proposed but not demanded. Attorney Phillips noted the difference is this property is governed in part by a court decision. Attorney Phillips noted at least one property owner has a 'to the middle of the road' deed and he is not aware of any case law. The public has rights to travel over the road but under the road may require compensation to the private property owner. These will be questions for the Governing Body to decide and not the Board. A condition of approval will be that they get any necessary approvals from the Borough and County. That said, the Board does have the right to make recommendations to the Governing Body through their resolution whether they think a proposal is good or bad and for what reasons. Their recommendation does not bind the Governing Body. Just as they recommend ordinances to go along with the Master Plan which the Governing Body may or may not adopt, they are an advisory board for planning issues and can recommend certain actions.

Mr. McCaffrey believed Alpine Three was part of the condemnation proceedings that followed the vacation of Schoolhouse Lane and that a corner of the property where the wall is may actually be Borough property. A lengthy discussion followed where Mr. Vander Veer recalled Schoolhouse Lane originally ran from DuBois all the way to Church Street and when it was vacated he believed a portion adjacent to Borough Hall; the full twenty feet and not just ten feet, may have been condemned so the Borough obtained the full width as part of their redevelopment of the property. Mr. McCaffrey recounted the legal history whereby the Gianuzzi's, Shaws, McCaffreys and Alpine Three were all part of the vacation of the road and the spring and subsequent condemnation. Alpine Three never accepted the money offered by the town. Attorney Phillips noted a Judgment of Condemnation would prevail regardless of whether they accepted any money. Attorney Phillips asked Ms. Tubman to check their Title Search and Ms. Hayward to check for any Judgment of Condemnation on file in the Clerk's office.

Robert McCaffrey, co-owner of adjacent property, was sworn. He also co-owns other parcels along Closter Dock Road. He totally supports the proposal for the seven townhouses. He believes aesthetically it will improve the center of Alpine. Hubschman Engineering is a great engineering firm and they will do an excellent job and he looks forward to seeing the townhouses built.

Ted Noback, resident Schoolhouse Lane, was sworn. He totally disagrees and thinks the proposed is totally out of character with the neighborhood. Even more so he is concerned about traffic issues noting he takes his life in his hands trying to get onto Closter Dock Road now. He is also concerned about the retaining wall that will go up on Schoolhouse Lane and what it's going to look like; a concrete or brick wall. That should be closely looked at. He's concerned about the view from his house where currently it is a nice wooded lot, he questions what the landscaping might be if the project is approved. He is also concerned about his rights to the spring as he has this in his deed, too. He is concerned if the application referred to the spring as a well and that should definitely be looked at. He's also concerned with the drainage. He's lived there for over 40 years and there's a tremendous amount of water that comes off of that lot. A lot of the testimony seemed to belittle that aspect of the project.

Hal Shaw, Closter Dock Road, was sworn. His major concern has always been the spring. During the litigation everyone was fighting for and against the DuBois spring. It always has been a spring. Most people consider a well a stable piece of water that fills from natural water table where a spring is an endless percolating source of water; a big difference. He urged them to look into the application because that is a big hiding. If you look on the DuBois map the reason it was so important in those days is evident because DuBois gave every single one of his kids a single strip of property on Closter Dock Road so they each had a front on Closter Dock Road and then he gave them a little chunk of property where the firehouse sits and every kid had rights for unobstructed access to that spring because 100 years ago water meant everything. So obviously that was a percolating source of water for all these properties and it was a very important thing. If you look at the map everything centers around that spring. The blacksmith shop grew up later because it needed water for its operations. He wants to make sure it remains a spring and not a well.

Paul Tomasko, owner of 87 Church Street, requested they hold the public comment portion open in its entirety, until at least the next meeting, so that people such as himself who have a lot of concerns about a project as consequential as this to their properties along the route and even in the immediate vicinity who may not yet have been heard from can get their thoughts in order and present concise comments. Chairwoman Parilla advised they will consider this.

Being no further comments at this time the public session was closed.

Attorney Phillips offered the matter be carried to the next regularly scheduled meeting. Ms. Tubman has a conflict for the June meeting. After some discussion it was determined the matter be carried to the regularly scheduled July date.

Date of Continued Hearing Upon a motion by Ms. Gerstein, seconded by Ms. Mattes and approved by all those eligible to vote to continue this matter to the July 23, 2013 regular meeting at 7:30 PM. Attorney Phillips noted no further public notice is required.

COMMUNICATIONS: Mayor Tomasko invited all to the Memorial Day parade.

Zoning Board of Adjustment Annual Report: Discussion carried to the next meeting.

BILLS:

Sills Cummis	\$ 500.00	Alpine Three (escrow)
Bisgaier Hoff	\$ 444.00	COAH
Sills Cummis	\$ 200.00	Appearance
RBA Group, Inc.	\$2,178.00	Alpine Three (escrow)

A motion to approve the bills was made by Mr. Mattes, seconded by Ms. Gerstein and approved by all those eligible to vote.

COMMITTEE REPORTS: Carried to the next meeting.

ADJOURNMENT:

A motion to adjourn the regular Planning Board meeting was made by Ms. Gerstein and seconded by Ms. Mattes. All were in favor. The meeting adjourned at 10:18 PM.

Respectfully submitted,

Marilyn Hayward
Recording Secretary