

## **ALPINE PLANNING BOARD**

Alpine Borough Hall  
100 Church Street  
Alpine, New Jersey 07620

### **MINUTES**

September 29, 2015

**CALL TO ORDER/PUBLIC ANNOUNCEMENT:** The Planning Board, Borough of Alpine, convened in regular session on Tuesday, September 29, 2015 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, September 29, 2015 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.

**SWEARING IN OF NEW MEMBER:** New member Joyce Sonpal was sworn as Alternate Member I by Attorney Phillips.

### **ROLL CALL:**

Members Present:	Catherine Parilla	Catherine McGuire
	Ralph Mattes	Gayle Gerstein
	Lorraine Mattes	Mayor Paul Tomasko
	David Kupferschmid	David Andrews
	Joyce Sonpal	

Members Absent: Jeff Fromm

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

### **PLEDGE OF ALLEGIANCE**

**APPROVAL OF MINUTES OF AUGUST 25, 2015 REGULAR MEETING:** A motion to approve the minutes of the August 25, 2015 Regular Planning Board meeting was made by Gayle Gerstein, seconded by Catherine McGuire and carried by those eligible to vote.

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

Mayor Tomasko welcomed Joyce Sonpal to the Board and commented that she, along with several other members of this board, had been honored as a Volunteer of the Year. The Mayor thanked Ms. Sonpal for agreeing to be part of this organization.

### **MAJOR SUBDIVISION APPLICATION (CONTINUED FROM AUGUST 25, 2015): WARREN HOLDINGS, LLC; BLOCK 72 LOTS 25 & 26; 35 & 39 WARREN LANE:**

Attorney Phillips asked Mr. Kupferschmid and Dr. Andrews if they had listened to the tape of the August hearing. Since they had not, and since Ms. Sonpal was just appointed this evening, he advised that they may participate but are not eligible to vote on this matter.

Elliot W. Urdang, Esq., 16 Engle St., Tenafly, NJ appeared on behalf of the Applicant, Warren Holdings, LLC, along with his associate, Jaclyn D'Arminio, Esq. and the Applicant's Engineer, Michael Hubschman, Hubschman Engineering, P.A., 263A S. Washington Ave., Bergenfield, NJ 07621. Also in attendance were the owners of Warren Holdings, LLC, Christopher and Anna Minnetian, and Christopher's father, Aram Minnetian. Attorney Urdang stated that although he did not attend the last meeting, he has looked very carefully at the application and discussed what transpired last month with his associate. There were concerns raised at the last hearing that should be discussed. The intent of the subdivision is to create a new lot and remove the existing structures on proposed lot 25.01. Additionally, the bulge on the property line for existing lot 25, which contains a garage, will be straightened out by moving the lot line; the garage will be retained and will become part of proposed lot 26.01. That structure was never conforming and moving it does not seem to him to be of great importance. The concern seems to be over what will happen with the remainder of the property that is being attached to lot 26.01. He can understand the board's concern, but at this time there are no plans for that property. While there may be concern that issue is not before the board at this time. If someone tries to develop the property in the future, they must obtain approval from this board. He heard that there was a suggestion of a deed restriction that would preclude any further development of the rear of proposed lot 26.01. In his opinion, that would take it out of the planning board's jurisdiction and any relief sought could only be obtained by instituting suit before the chancery division.

Attorney Phillips remarked that the other option discussed was the recording of the resolution with the expression by the board that they did not want to see a flag lot off of Warren Lane, and asked Mr. Urdang if he had any objection to that. Mr. Urdang replied that he had less objection to that than a deed restriction; however, he is uncomfortable with the fact that the board is making a determination about something that is not in front of it. Mr. Phillips stated that putting the board's concerns in the resolution and having it run with the chain of title ensures that any future property owner cannot claim that he was unaware of position of the board regarding this issue. Mr. Urdang remarked that their agreement with the language in the resolution is predicated on approval of the map that is presently before the board.

Mayor Tomasko remarked that the deed restriction was suggested because they heard testimony that the rear lot would be kept by the family as open space. Mr. Urdang responded that the applicant before the board now is not necessarily the one who would want to develop the property and shouldn't be bound by something that is not in front of the board in the first place. Conditions may change in the future.

Mr. Mattes asked Attorney Phillips to clarify the testimony by the applicant's engineer that a hardship would be self-created. Mr. Phillips advised that it is a condition that the applicant is creating today with this request, which should not give relief in and of itself to a future applicant.

Ms. Parilla asked Mr. Urdang to refresh us regarding the movement of the lot line to create the curve at the end. Mr. Urdang stated that what they are doing is twofold. They are transferring the land in the rear from the left side to the right side, to prepare the lot on the left side for sale. They are also straightening out the property line as it goes toward Warren Lane, eliminating that bulge. Ms. Parilla commented that if the garage were not there, the lot line could be straight. Mr. Urdang replied that it could possibly be but moving it over increases the amount available for a house to be constructed.

Ms. Mattes noted that there is a for sale sign in front of lot 25 and asked what is for sale, the whole lot or the proposed subdivision. Mr. Minnetian replied that it is the proposed lot. The existing house and shed on lot 25 will be demolished. Mayor Tomasko asked Attorney Phillips how we are going to comply with the borough's policy of not issuing a demolition permit until the septic is installed. Attorney Phillips questioned Mr. Hubschman on the status of the septic. Mr. Hubschman stated that he discussed the test pits with the Borough Health Officer Bill Galdi and did the soil testing and they would more than likely install one system in front and one in the rear. Five or six bedrooms are proposed. They have not yet filed for their DEP permit.

Mr. Vander Veer clarified that the DEP permits will take several months, and he is not sure if the DEP permit is required prior to demolition, since that area is within the riparian zone. Certainly the DEP permit is required for

installation of the septic system. He is concerned about the timing of removing the house, installing the septic, getting all of that done before the subdivision is filed. The subdivision must be recorded within ninety days unless approvals are needed from other governmental agencies.

Attorney Phillips read the conditions if the board decides to approve the subdivision application:

1. Removal of structures as discussed prior to signing the plat.
2. Filing of the map
3. Compliance with Mr. Vander Veer's July 23, 2015 letter.
4. Recording the resolution of the board and adding the recording information for the conservation easement to the plat.

The decision will be based on the plan before the board, not the revision of the lot line as discussed at the last meeting.

Attorney Phillips asked Mr. Hubschman if he has submitted the test pit results to Mr. Galdi. Mr. Hubschman replied that he met with Mr. Galdi at the site but he has not made the formal submission yet. Mr. Kupferschmid asked if Mr. Galdi had any issues in the back with the proximity of the septic fields to the water on the property. Mr. Hubschman replied that they have fifty feet, which is adequate.

Mr. Mattes pointed out that Engineer Vander Veer's July 23<sup>rd</sup> letter there were ten items that would require a waiver or variance. Ms. Parilla remarked that they are part of the conditions read by Attorney Phillips. The front yard setback for the existing house and the side yard setback for the existing shed mentioned in Mr. Vander Veer's letter will be eliminated since the structures will be removed.

Ms. Parilla asked for a motion. Ms. McGuire made a motion to accept with the conditions as stated above. Ms. Mattes commented that going through all these steps will be daunting and will be a long process. Mr. Mattes stated that he is still uncomfortable and would find it remarkable for a land owner not to subdivide the lot in the future. Mr. Kupferschmid agreed, but added that it is not for us to decide at this time. Mr. Mattes commented that the adamant attitude of no deed restriction speaks words.

Ms. Parilla asked Attorney Phillips to read the conditions again so that the board knows exactly what they are voting for. Attorney Phillips read the conditions again, as follows:

1. Removal of structures as discussed prior to signing the plat.
2. Filing of the map
3. Compliance with Mr. Vander Veer's July 23, 2015 letter, with modifications as discussed.
4. Recording the resolution of the board and adding the recording information for the conservation easement to the plat.
5. Condition of septic systems as discussed.

A vote was taken. The votes were as follows: Gerstein: no; McGuire: yes; L. Mattes: no; R. Mattes: no; Parilla: yes; Tomasko: yes.

Since the vote was tied, Chairperson Parilla suggested that we carry the matter to the next meeting so that the members who were ineligible to vote have an opportunity to listen to the transcript of the August 25<sup>th</sup> hearing. Attorney Phillips was not certain that was an option, but advised that the applicant can move for reconsideration at the next hearing. Mr. Urdang asked for a moment to confer with his clients and left the room. When he returned he asked for reconsideration to re-poll the board. Everyone was agreeable to a re-vote. Attorney Phillips advised that the motion was to approve with the conditions as stated above.

The votes were as follows: Gerstein: yes; McGuire: yes; L. Mattes: no; R. Mattes: no; Parilla: yes; Tomasko: yes.

**REVIEW OF BOROUGH NOISE ORDINANCE:** Attorney Phillips distributed copies of a Model Noise Control Ordinance provided by the NJ DEP as a guide for municipalities to follow, and advised that a municipality can adopt its own ordinance, but it must be sent to Trenton and approved by DEP. If you use this model, DEP will approve it. Mr. Mattes asked what prompted the request for review of the ordinance. Mayor Tomasko replied that he has heard from residents with concern about disruption and noise from rock hammering being done various areas in the borough on Saturdays. Ms. Parilla commented that the model ordinance is rather complex and more appropriate for a much larger community than ours. She suggested that since our landscapers are no longer allowed to work on Saturdays, the same restriction should apply to rock hammering. Mayor Tomasko commented that it can be a minor modification to our existing ordinance. He thanked Attorney Phillips for providing us with the model ordinance. If we wish to incorporate anything from there into our ordinance we can take some time to review it as this does not have to be decided before the next meeting. The board will review the materials and carry the discussion to the next meeting.

**COMMUNICATIONS:** None

**BILLS:**

Burgis Associates, Inc.	\$6,212.50	Housing Plan 2015
Bisgaier Hoff, LLC	\$2,172.99	Affordable Housing Advice & Litigation
Bisgaier Hoff, LLC	\$5,452.21	Affordable Housing Advice & Litigation
North Jersey Media	\$ 17.01	Notice of Decision - Barot
John Phillips, Esq.	\$ 200.00	August Meeting Attendance

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

**COMMITTEE REPORTS:**

**Northern Valley Mayors & Planners Assoc.:** Mayor Tomasko reported that a meeting was held last Thursday. The speaker was the recently appointed Acting Parks Director James Koth.

**Board of Health:** A routine meeting was held on September 8<sup>th</sup>.

**Environmental Commission:** Ms. Mattes reported that no meeting was held this month because there were no sites to visit, but she and two other members attended a seminar on tree care which was very interesting. Ms. Parilla asked if we can post information regarding dangerous trees on our bulletin board. Ms. Mattes advised that someone with expertise would have to look at the tree to determine whether or not it is dangerous, but she will look out for something such as a poster that would provide information.

**Building Department:** Mayor Tomasko noted that Councilman Halbreich, the Building Commissioner, was in the audience and thanked him for his time and interest in the noise matter and for the work he does as an elected officer.

**NJ Transit Update:** Ms. Parilla read an article in today's Record which reported that Fort Lee has designated an area to be rehabilitated, contingent upon the hope that a light rail can run through it.

**COAH Update:** Mayor Tomasko reported that the Housing Plan will be on next month's agenda and Attorney Robert Kasuba will be in attendance.

**EXECUTIVE SESSION:**

A motion to enter into Executive Session at 8:41 PM providing for a Meeting Not Open to the Public in Accordance with the Provisions of the New Jersey Open Public Meetings Act, N.J.S.A. 10:4-6, et seq. for the purpose of discussing a matter relating to litigation concerning Alpine III vs. the Alpine Planning Board as

permitted under N.J.S.A. 10:4-12.b.7. was made by Gayle Gerstein and seconded by Catherine McGuire. An Executive Session closed to the public shall be held for the discussion of matters relating to the specific item designated above. It is further noted deliberations conducted in closed session may be disclosed to the public upon the determination of the Borough Council that the public interest will no longer be served by such confidentiality. All were in favor.

The Planning Board reconvened in regular session at 8:48 PM.

**ADJOURNMENT:** A motion to adjourn the regular Planning Board meeting was made by Gayle Gerstein and seconded by Catherine McGuire. All were in favor. The meeting adjourned at 8:49 PM.

Respectfully submitted,

Marilyn Hayward  
Recording Secretary