

## **ALPINE PLANNING BOARD**

Alpine Borough Hall  
100 Church Street  
Alpine, New Jersey 07620

### **MINUTES**

August 22, 2017

**CALL TO ORDER/PUBLIC ANNOUNCEMENT/PLEDGE OF ALLEGIANCE:** The Planning Board, Borough of Alpine, convened in regular session on Tuesday, August 22, 2017 at 7:30 P.M. Chairperson 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, August 22, 2017 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: Gayle Gerstein, Elizabeth Herries, David Kupferschmid, Catherine McGuire, Catherine Parilla, Mayor Paul Tomasko

Members Absent: Carol Cochi, Lorraine Mattes, Joyce Sonpal, Alt I Jeff Fromm

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

### **APPROVAL OF MINUTES OF JULY 25, 2017 REGULAR MEETING:**

Upon a motion by Ms. Herries seconded by Mrs. Gerstein, to approve the minutes of the July 25, 2017 Planning Board Regular Meeting. Eligible members voted as follows:

Vote: Ayes: Gayle Gerstein, Elizabeth Herries, Catherine McGuire, Catherine Parilla, Mayor Paul Tomasko

### **APPROVAL OF MINUTES OF JULY 25, 2017 EXECUTIVE SESSION:**

Upon a motion by Ms. Herries seconded by Mrs. Gerstein, to approve the minutes of the June 27, 2017 Planning Board Executive Session. Eligible members voted as follows:

Vote: Ayes: Gayle Gerstein, Elizabeth Herries, Catherine McGuire, Catherine Parilla, Mayor Paul Tomasko

### **MOTION TO AMEND AGENDA**

Upon a motion by Mayor Tomasko, seconded by Mrs. McGuire and approved by all to amend agenda moving Memorialization of Resolution regarding Grinberg Block 49.02 Lot 17 – 28 Ellens Way to later on in the agenda.

### **OPEN TO PUBLIC: NON-AGENDA ITEMS** - none

### **APPLICATIONS**

**Soil Moving: Crespo; Block 49 Lot 2, 477 Hillside Avenue** Attorney Philips advised applicant requested this matter be carried to the next meeting. Upon a motion by Mayor Tomasko, seconded by Mrs. McGuire and approved by all to carry the matter of Crespo Block 49 Lot 2, 477 Hillside Avenue to the next meeting scheduled for September 26, 2017.

### **Soil Moving: Low; Block 73 Lot 10 – 6 Birch Road**

Matthew G. Capizzi, Esq. 11 Hillside Avenue, 2<sup>nd</sup> Fl., Tenafly, NJ 07670 appeared on behalf of Applicants, Mr. & Mrs. Low. This application was before the Board July 2016 for a major soil moving permit with waivers from the soil moving and tree ordinances. Approval was obtained but Applicants have been unable to find an available contractor and they seek a one year renewal to find a builder. The current market for redevelopment has been very busy and schedules for many of the more reputable contractors are full. They hope to find one within the next 2-3 months. Once found the process of obtaining subcontractors, permits and approvals would likely bring them into winter months when weather may preclude

excavation of the foundation. Attorney Capizzi has advised his client to move forward in a timely fashion. Plans are the same as in the July 2016 application and they do not seek any modifications or enlargements.

Michael J. Hubschman, PE, PP of Hubschman Engineering, PC, 263A S. Washington Ave., Bergenfield, NJ 07621 was sworn. Mr. Hubschman concurred the plans have not changed except for one drainage revision adding something in a catch basin per Mr. Vander Veer's letter of June 22, 2016.

Mrs. Parilla asked if this was the house with two driveways. Mr. Hubschman affirmed one driveway is on Birch Road and one on Allison Road. Mrs. Parilla asked if all of Mr. Vander Veer's conditions were addressed. Mr. Hubschman stated yes noting on the plans Revision #8 middle of Sheet 2 as provided to the Board shows they added a weir to the center of inlet #5 in the rear and made some minor revisions to the drainage report. Mr. Vander Veer confirmed latest revisions comply with his previous letter and the Board's prior approval. His most recent letter dated August 3, 2016 dealt with guarantees, tree removal permits and the notice of decision.

Mrs. Parilla invited questions from the public.

The adjacent neighbor was concerned if there would be any changes and hired Robert Lewis Costa, PE, PP to represent him to ensure what was agreed to at the prior meeting stays in effect moving forward. Mr. Hubschman repeated the only revision was the weir as recommended by Mr. Vander Veer. There were no other changes.

Mr. Costa recalled they had numerous meetings with the applicant prior to the 2016 hearing and a lot of thought went into the approved landscape plan. That plan should still be required. Attorney Capizzi affirmed that's their intent. Attorney Phillips received clarification the landscape plan referenced was prepared by Meumann Associates dated March 22, 2016, last revised June 27, 2016. Mr. Costa asked this be noted in the resolution for the protection of his client.

Mr. Costa questioned new State stormwater management regulations requiring oversight by the municipality and maintenance by the homeowner to ask how they would be implemented. Mr. Vander Veer clarified the new rules are still in draft form. They currently require deed restrictions for water quality devices but that would not apply to this drainage plan. A discussion followed regarding the proposed rules and potential implementation. Ultimately the property owner is responsible for maintenance of their drainage devices.

In response to Mr. Kupferschmid, Attorney Capizzi advised, at this time, the applicants intend to build for their own use. Ms. Herries asked impact of not approving the application. Attorney Phillips advised he has not heard a significant issue cited by the Board or public and Attorney Capizzi could appeal to Superior Court for a finding that the Board's refusal was arbitrary, capricious or unreasonable.

Mr. Vander Veer recommended a condition requiring immediate cleanup of the site and installment of erosion control measures as nothing has been done since the septics were installed and he's observed silt runoff from heavy rainfalls. They need to install silt fencing and a stone construction access. Attorney Capizzi noted a silt fence exists along the front and right sideyard. Mr. Kupferschmid emphasized the condition should require compliance with all of Mr. Vander Veer's requirements to ensure adequate erosion control measures are installed and maintained properly for project duration.

Upon a motion by Mayor Tomasko, seconded by Mr. Kupferschmid to approve subject to the usual and specific conditions as noted during the course of these proceedings being included in the resolution to be prepared by Attorney Phillips. Attorney Phillips noted the resolution will also reference the dated plans provided to the Board.

Vote: Ayes: Gayle Gerstein, Elizabeth Herries, David Kupferschmid, Catherine McGuire,  
Catherine Parilla, Mayor Paul Tomasko

Attorney Phillips clarified to Mr. Capizzi that the resolution will be scheduled in September for adoption by the Planning Board and then affirmation by the Mayor and Council. They will have one year from the date of Mayor and Council approval. Any request for another extension must be filed within 30 days prior to the expiration of that additional year. Attorney Capizzi acknowledged same and hoped they would not need it.

Mr. Vander Veer noted there has been a marked increase in submissions in the last few weeks including projects that have been dormant for years.

**MEMORIALIZATION GRINBERG BLOCK 49.02 LOT 17 – 28 ELLENS WAY**

Mrs. Parilla reminded Mr. Grinberg stated at the prior meeting that he was building the home for himself and his wife and she couldn't wait to move in. Subsequently she has learned the property's been listed on Zillow.com for 157 days, his wife is the listing agent, the plan shown on the website is not the plan they approved and the asking price is \$4,590,000. This means the property was posted for sale at the time Mr. Grinberg appeared before the Board. She distributed copies of the posting.

Mrs. Parilla and Mr. Kupferschmid questioned what recourse the Board has when an applicant lies; can they ask Mr. Grinberg to come back before the Board to explain? Attorney Phillip explained the issue is whether the lie involved is a material fact. This is not technically a material fact as the MLUL does not allow you to make a distinction between forms of ownership or intent to buy, sell or personally occupy. Stating something incorrectly on purpose while under oath could constitute perjury and could cast doubt on the remainder of his testimony which could then be discounted but typically these applications rest mainly on the engineer and expert witnesses; not the applicant. Mrs. Herries noted his statement to live in the house is in the minutes but not in the resolution. Mrs. Parilla and Attorney Phillips noted the statement that "Mr. Grinberg is present and aware that he is not permitted to use any other space that is not labeled as a bedroom any other way," is in the resolution. Can they rely on that? While under oath he only apologized that the time to construction was taking so long. Attorney Phillips noted the Applicant will be bound by the resolution and the plans before them by Jordan Rosenberg Associates dated April 13, 2017.

Upon a motion by Mrs. McGuire, seconded by Mrs. Herries to approve the resolution and open for discussion.

Discussion ensued and the following changes made which do not change the substance of the resolution.

- 1) Correct reference to the vote as unanimous as it was not.
- 2) Add Conclusion "C. This Board approval incorporates the plans described in Findings of Fact #1 and the maintenance requirement in Findings of Fact #6". As requested the applicant did clean up the site subsequent to last month's hearing. The Board asked that a condition to maintain the site prior to and during construction be added to the resolution. This will be enforceable by the Property Maintenance Official. After they obtain their building permit the Borough Engineer periodically inspects the site and if any violations are noted he informs the builder and the Construction Code Official.

The vote reflects only those eligible to vote:

Vote: Ayes: Mrs. Gerstein, Mrs. Herries, Mrs. McGuire, Mrs. Parilla

**COMMUNICATIONS** - None

<b><u>BILLS:</u></b>	John Phillips	\$200.00	July Meeting
	John Phillips	\$640.00	Escrow: Grinberg Block 49.02 Lot 17 – 28 Ellens Way
	Clarke, Caton & Hintz	\$121.00	COAH Trust: Court Appointed Special Master
	NJ Media	\$ 18.97	Escrow: JLB Legal Services Bl.76 L.2 – 32 Allison Road
	Azzolina & Feury	\$ 54.00	Escrow: Crespo Block 49 Lot 2 – 477 Hillside Avenue
	Azzolina & Feury	\$163.50	Escrow: Grinberg Block 49.02 Lot 17 – 28 Ellens Way
	Azzolina & Feury	\$ 81.75	Escrow: Low Block 73 Lot 10 – 6 Birch Road

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

**COMMITTEE REPORTS:**

Northern Valley Mayors & Planners Assoc.: No meeting

Board of Health: The Board next meets September 12<sup>th</sup>.

Environmental Commission: No report

Building Department: Report distributed without comment.

NJ Transit Update: Mrs. McGuire had nothing to report.

COAH Update: Mayor Tomasko advised Counsel is working on applying for another extension of relief.

**ADJOURNMENT:** A motion to adjourn the regular Planning Board meeting was made by Mrs. Gerstein and seconded by Mrs. McGuire. All were in favor. The meeting adjourned at 8:17 PM.

Respectfully submitted,

Marilyn Hayward  
Recording Secretary