

ALPINE ZONING BOARD OF ADJUSTMENT
Reorganization Meeting
Thursday, January 19, 2023 - 7:30 P.M.
(This meeting was held in person and taped in its entirety)

CALL TO ORDER/PLEDGE OF ALLEGIANCE/PUBLIC ANNOUNCEMENT

This regular meeting of the Alpine Zoning Board of Adjustment was called to order by Chairman Glazer at **7:29 P.M., Thursday, January 19, 2023** at the Alpine Borough Hall, the Pledge of Allegiance recited and the Public Announcement read according to the requirements of N.J.S.A. 10:4-6 et seq.:

In accordance with the provisions of the Open Public Meetings Law, notice of this Zoning Board of Adjustment meeting has met the requirements of the law as part of the Borough of Alpine's annual meeting notice published in The Record on January 9, 2023, emailed to The Suburbanite, and posted on the bulletin board in the lobby, and on the Borough website (<http://www.alpinenj07620.org>). Instructions for how the public can participate and access the meeting and documents have been included in the posted agenda; a copy filed in the Borough Clerk's office.

Swearing-In Ceremony

The Oath of Office was administered by Mayor Paul H. Tomasko to:

- Robert F. Policano as Alternate I Board Member for a two-year term
- Bruce Pomerantz as Alternate II Board Member for a one-year term

ROLL CALL

Richard Glazer (C)	Present	Tony Clores (VC)	Absent	Amy Lerner	Absent
George Abad, Jr	Present	Richard Bonhomme	Present	Robert F. Policano, Alt I	Present
Anthony Barbieri	Present	Elizabeth Herries	Present	Bruce Pomerantz, Alt II	Present

Staff Present:

Cara Landolfi, Esq. for Board Attorney Michael B. Kates, Esq., Board Engineer Perry Frenzel, Board Secretary Jo Anna Myung

Noted: Mayor Paul H. Tomasko and Councilman David Kupferschmid in attendance as audience members.

Appointments The following appointments were made by unanimous vote of all those present:

Upon a **Motion by** Mr. Bonhomme, **Seconded by** Mr. Barbieri, to appoint **Mr. Richard Glazer as Chairman.**

Vote: Ayes: Mr. Abad, Mr. Barbieri, Mr. Bonhomme, Mr. Glazer, Ms. Herries, Mr. Policano, Mr. Pomerantz

Absent: Mr. Clores, Ms. Lerner

MOTION APPROVED

Upon a **Motion by** Mr. Glazer, **Seconded by** Mr. Abad to appoint **Mr. Anthony Clores as Vice-Chairman.**

Vote: Ayes: Mr. Abad, Mr. Barbieri, Mr. Bonhomme, Mr. Glazer, Ms. Herries, Mr. Policano, Mr. Pomerantz

Absent: Mr. Clores, Ms. Lerner

MOTION APPROVED

Upon a **Motion by** Mr. Glazer **Seconded by** Mr. Bonhomme to appoint **Jo Anna Myung as Board Secretary**

Vote: Ayes: Mr. Abad, Mr. Barbieri, Mr. Bonhomme, Mr. Glazer, Ms. Herries, Mr. Policano, Mr. Pomerantz

Absent: Mr. Clores, Ms. Lerner

MOTION APPROVED

Appointment of Board Attorney:

Upon a **Motion by** Mr. Abad, **Seconded by** Ms. Herries at the 2023 reorganization meeting of the Zoning Board of Adjustment in the Borough of Alpine held on Thursday, January 19, 2023;

WHEREAS, the Zoning Board of Adjustment has a need to acquire the professional services of **Michael Kates, Esq.** of the law firm **Kates, Nussman, Ellis, Farhi & Earle, LLP** for Attorney to the Zoning Board of Adjustment of the Borough of Alpine without competitive bidding pursuant to N.J.S.A. 40A:11-5(1)(a)(i) to be provided as a non-fair and open contract pursuant to the provisions of N.J.S.A. 19:44A-20.4 and/or 20.5; and,

WHEREAS, the term of this contract is for one year; and

WHEREAS, Attorney Kates has submitted a proposal indicating he will provide services for the prices as approved in his letter of agreement; and

WHEREAS, these professional services may exceed the aggregate threshold set by N.J.S.A. 19:44A-20.4 and/or 20.5, Attorney Kates has completed and submitted a Business Entity Disclosure Certification certifying neither he nor his firm have made any reportable contributions to a political or candidate committee in the Borough of Alpine for the elected officials in the Borough of Alpine in the previous one year, and acknowledging this agreement will prohibit he or his firm from making any such reportable contributions through the term of the contract, and

WHEREAS, this contract is subject to the Chief Financial Officer of the Borough of Alpine, County of Bergen, State of New Jersey, certifying funds are available in the 2023 municipal budget;

NOW THEREFORE, BE IT RESOLVED that the Zoning Board of Adjustment of the Borough of Alpine approves the letter of agreement; and

BE IT FURTHER RESOLVED that the Business Disclosure Entity Certification and the Determination of Value, as required, be placed on file with this resolution; and

BE IT FURTHER RESOLVED that notice of the award of this Professional Service Agreement will be published in the Record.

Vote: Ayes: Mr. Abad, Mr. Barbieri, Mr. Bonhomme, Mr. Glazer, Ms. Herries, Mr. Policano, Mr. Pomerantz

Absent: Mr. Clores, Ms. Lerner

MOTION APPROVED

These minutes have been approved by the Zoning Board of Adjustment on February 16, 2023.

COMMUNICATIONS:

- Church of the Lord final As-Built survey not yet received. Mr. Capizzi commented that Mr. Hubschman is in the process of updating those site plans. They understand they cannot file for permits until amended plans are submitted. Ms. Landolfi confirmed that supplying these updated site plans and landscaping plans is one of the conditions for approval.
- As of January 2022, municipalities are required to provide a bi-annual roster of current Board Members in January and July of every year pursuant to NJAC 5:87-1.6(c). Bi-annual reporting of our Zoning Board Officials were submitted to the DCA on January 10, 2023.

PROCEDURAL MOTIONS**Resolution: Approval of Regular Meeting Minutes - December 15, 2022****Motion by:** Mr. Abad **Seconded by:** Mr. Barbieri

At the meeting of the Zoning Board of Adjustment on Thursday, January 19, 2023 to approve the December 15, 2022 meeting minutes.

Vote: Ayes: Mr. Abad, Mr. Barbieri, Mr. Bonhomme, Mr. Glazer, Ms. Herries, Mr. Policano**Abstain:** Mr. Pomerantz**Absent:** Mr. Clores, Ms. Lerner**MOTION APPROVED****Resolution: Approval of Regular Meeting Minutes - November 17, 2022 revised with appended transcript****Motion by** Mr. Abad **Seconded by** Mr. Barbieri

At the meeting of the Zoning Board of Adjustment on Thursday, January 19, 2023 to approve the revised with appended transcript of the November 17, 2022 meeting minutes.

Vote: Ayes: Mr. Abad, Mr. Barbieri, Mr. Bonhomme, Mr. Glazer, Ms. Herries, Mr. Policano**Abstain:** Mr. Pomerantz**Absent:** Mr. Clores, Ms. Lerner**MOTION APPROVED****Resolution: Approval of Bills and Claims****Motion by** Mr. Barbieri **Seconded by** Mr. Abad

To approve the following Bills and Claims:

Kates Nussman Ellis Farhi & Earle LLP	ZBA Atty Serv. 7/1/2022-12/31/2022	Inv. 29792	\$1,000.00
Kates Nussman Ellis Farhi & Earle LLP	Escrow: 47/2 & 48/1.01 – Closter Dock Road	Inv. 29916	\$2,610.00

Vote: Ayes: Mr. Abad, Mr. Barbieri, Mr. Bonhomme, Mr. Glazer, Ms. Herries**Abstain:** Mr. Policano, Mr. Pomerantz**Absent:** Mr. Clores, Ms. Lerner**MOTION APPROVED****MEMORIALIZATION:****Resolution: Approval of Church of the Lord**

Approval is contingent upon receiving final As-Built Survey.

Church of the Lord:

- **995 Closter Dock Road: Block 47 Lot 2**
- **10 Old Dock Road: Block 48 Lot 1.01**

Motion to Approve. Upon a motion by Mr. Abad, seconded by Mr. Bonhomme to approve the development application of Church of the Lord located at 995 Closter Dock Road (Block 47, Lot 2) and 10 Old Dock Road (Block 48, Lot 1.01). The approval is for a use variance pursuant to N.J.S.A. 49:55D – 70d (3) of off-street parking less than the required number of spaces for houses of worship as a conditional use. The approval included site plan review for expanded on-site parking areas, enhanced landscape buffer and a required parking attendant, all as set forth in the Memorialization Resolution.

Vote: Ayes: Mr. Abad, Mr. Barbieri, Mr. Bonhomme, Mr. Glazer, Ms. Herries**Abstain:** Mr. Policano, Mr. Pomerantz**Absent:** Mr. Clores, Ms. Lerner**MOTION APPROVED****HEARING:** Stan and Margaret Mankovsky - 10 Rionda Court (Block 49 Lot 39)

The hearing for 10 Rionda Court was tentatively scheduled tonight due to an opposition that was received to adjourn the meeting. The Board will decide after hearing the issues of the adjournment.

Attorney for the Applicants: Matthew G. Capizzi, Esq. 11 Hillside Avenue 2nd Floor, Tenafly, NJ 07670.

Mr. Matthew G. Capizzi appeared before the Board, on behalf of his Client who were present in the audience, and presented his case to request for this matter to be heard tonight:

Mr. Capizzi provided an explanation of this application. He stated that this property came before the Board in 2002 for 1) a front-yard setback variance, 2) to increase the height of the pool (at that time, height limitation of no more than 5 feet above existing grade), and 3) a variance for a retaining wall height; and a major soil moving permit. The application was approved. It did have one neighbor's opposition which resulted in modifications made to the plan set with improvements made in the field. The application was filed by J&L Developers; who were developers and property owners at the time. Mr. Mankovsky purchased the property in January 6, 2006 from that developer, with all the improvements that existed on the field, in the same conditions as of January 6, 2006.

Today, Mr. Mankovsky is looking to sell the property. In this effort, they went to the building department to get a Certificate of Continued Occupancy (CCO).

Part of the building department's application vetting process required them to open up building department files for any open permits. It was then discovered that an As-Built survey was never filed. Mr. Mankovsky was unaware of all this until he had filed the CCO application because letters requesting this As-Built survey were sent to the developer, not the home owner. As a result, Mr. Mankovsky needed to file the final As-Built survey in order to close out all permits from the 2004 construction.

So, Mr. Mankovsky hired McNally Doolittle Engineering firm to perform the survey. When Mr. Doolittle got back from the field to prepare the computations, it was revealed that the Building and Impervious coverage is in excess of what is allowed. Building coverage is at 10½% where 9% is allowed, and the impervious coverage is at 18% where 15% is allowed. Mr. Capizzi stated that Mr. Mankovsky has not done any work on the site since he brought the house in January 6, 2006; except for basic maintenance. They are left at a loss to explain how these overages occurred. Mr. Capizzi stated that him and Mr. Doolittle did as much historical investigation as they could in order to figure out what happened, and provide an explanation to the Board this evening.

Mr. Capizzi stated that Collazuol was the Engineer that prepared the Site Plan relative to the construction of the new home, pool and driveway. Mr. Capizzi also stated that they were the firm that represented the then property owner that came before the Board in 2002. Collazuol Engineers had prepared an As-Built survey in 2004 which reported the building coverage as 9% and impervious coverage of 15%. Mr. Vanderveer wanted additional datum added to the 2004 As-Built survey which never happened. Mr. Mankovsky was not involved in any of this paperwork.

As part of the investigation, Mr. Doolittle got hold of the Collazuol As-Built survey [Exhibit A – 8], and compared it to his 2022 survey [Exhibit A – 6]. Mr. Doolittle then over-laid the plans [Exhibit A – 9] and it revealed that even though the 2004 Collazuol plan had the same footprint, the Collazuol plan computed a 9% building coverage versus Doolittle's 2022 plan which computed at 10½%. Somehow when the calculations were done in 2004, it was done incorrectly.

Secondly, Mr. Capizzi stated that the property has a unique motor court in the front with a landscaped island in the middle. The driveway meanders downward with a side loading driveway which is lower in elevation than the street. It is apparent that field changes were made by contractors in 2004; with an increased radius of the motor court and widened to provide for more movement to pull in and out of the garage bay doors. Based off the Collazuol plan, it would have provided for a very tight turning movement proximate to the garage doors, and the motor court would not have functioned at all because it would not allow the vehicle to pull in on one movement [Exhibit A – 10].

In summary, this is what Mr. Capizzi had discovered were changed from the plan that was approved by the Board in 2002; what was submitted by Collazuol; and what they verified in the field as it exists today.

Mr. Capizzi on behalf of his Client is here for a variance basically after the fact. He stated that generally speaking from a presentation dynamic, this may not be how the Board wants to hear the application be presented. Unfortunately, the people that needed to pay left and his Clients are just trying to sell the house. Mr. Capizzi admitted that there are some house-keeping items to clean this up in order to do so. There may be some culpability on Mr. Mankovsky; which he can speak about himself. Mr. Capizzi pleaded that they have been living there since 2006, and the Borough has not questioned their ability to take occupancy even without a TCO or CCO, they have been paying taxes in a timely fashion, they've received no complaints from neighbors with drainage issues since 2006, and they've kept to themselves without infringing anything to adjacent sites. Mr. Capizzi hopes the Board can understand this unique dynamic and explanation.

Mr. Michael Silverstein appeared before the Board to request for an adjournment of this hearing.

Mr. Michael Silverstein, 14 Rionda Court, was sworn in and presented his case for this matter to be adjourned. Mr. Silverstein entered into evidence Mr. Capizzi's publication notice [already received as Exhibit A – 4] and stated that his attorney Richard Hubschman sent a letter to Mr. Capizzi and to the Board requesting adjournment. Mr. Silverstein commented that the engineer review letter was not provided to the public at least 10 days prior to the hearing, which did not allow sufficient time for them to have reviewed it.

Ms. Landolfi stated that pursuant to N.J.S.A. 40:55D – 10b, Board documents such as Engineer Review letters are not required to be filed 10 days prior to the hearing. The 10-day rule apply to applicants' documents which the applicants did comply with; so procedurally they did notice appropriately.

Mr. Silverstein requested a document to be enter into evidence. Board went off record at 7:57 PM for Board Secretary to make copies, and came back on record at 7:59 PM. Mr. Richard Hubschman's Request for an Adjournment letter and Mr. Capizzi's Response to Request for Adjournment letter was already received by the Board and entered into the Exhibit list.

Mr. Silverstein requested an adjournment because his Attorney Richard Hubschman, and Engineer Michael Hubschman, who were his original Attorney and Engineer from 2002 regarding this case were not available to appear tonight. Mr. Silverstein stated that the requirements that the Board had agreed to back in 2002 were never satisfied. Furthermore, Mr. Silverstein, based on Azzolina's August 6, 2002 report that the house must be constructed according to the amended plan; and for any deviation from this set plan, the applicant must reappear before the Board. Mr. Silverstein stated that "Issues from June 18, 2002 were never fully addressed. Page 2 from Azzolina's letter references a number of defects that were never cured. Page 3 requires certain construction before a CO can be issued. The applicant never reappeared."

Mr. Silverstein further argued that "they cannot decline a 30-day adjournment when this has been delayed 20 years and this is the first time this matter is back on." Mr. Silverstein pleaded for the Board to adjourn this hearing until 1) his original Attorney and Engineer that are familiar with these issues are available at next month's meeting to represent him, and 2) give his neighbors appropriate time to review a matter of public safety, and 3) have his Engineer revisit the site to take a position before the Board.

OPEN TO THE BOARD FOR COMMENTS

Mr. Glazer inquired if these are new or continuing issues from 20 years ago. Mr. Silverstein responded that these are issues spanning from 20 years ago.

Mr. Capizzi questioned Mr. Silverstein on his professionals' availability to appear tonight and whether they have been retained. **Mr. Silverstein** confirmed that Richard Hubschman is representing him as Capizzi's office had received a letter stating that Richard Hubschman is representing him.

Mr. Capizzi argued the point on public safety. Mr. Capizzi stated that there are no public safety issues because no one has heard about it until tonight. To date, they have been there since 2006 with no violations of any kind: no public safety issues, no life safety issues and no drainage issues. They are only here tonight because the applicant needs to get a CCO; he wants to sell the house with a pending closing date within two weeks. Mr. Capizzi stated that Mr. Silverstein should be aware of this because his Client has spoken to him about it. **Mr. Silverstein** objected about his Client speaking to him about this matter. **Mr. Glazer** requested for order and for courtesy to have only one speaker speak at a time.

Mr. Capizzi continued that the improvements they are discussing have been in place since 2006. Mr. Capizzi is not stating that everything is okay from an approval standpoint, nor that the process is unimportant. Mr. Capizzi argued that the work done in 2004 and 2006 by the then developer and owner obviously was sufficient enough not to have caused any negative issues onto any adjacent property, beyond what was already complained about in 2002. Mr. Capizzi further stated that Mr. Silverstein did not like the developments in 2002, and he hired representatives to make modifications to those plans. They built what was approved in 2004; with modifications to the driveway and mathematical errors to the footprint mentioned earlier.

Mr. Capizzi argued if there are concerns relative to drainage, Mr. Frenzel and Mr. Doolittle can speak to the site as they have already been there many times. Mr. Capizzi stated that "if Mr. Frenzel feels that he needs to do further investigations on it, they take no issue with that but would it be necessary at this point in time to delay the matter for 30 days to analyze some unspecified public safety issue, which thankfully have not been brought to anyone's attention over the past 20 years." Whereas, on a side note Mr. Capizzi mentioned even though it was not material to the variance relief, Mr. Mankovsky has financial stressors and his property is subject to a short sale in which they have two weeks to sell it.

Mr. Glazer asked then why bring it up? Mr. Capizzi stated that he was only trying to make the Board understand why it was important for his Client not to adjourn as they are not as flexible with time in this matter. They would appreciate the Board's consideration before making the determination to carry, and hear what Mr. Frenzel has to say regarding whether additional time would be necessary to assess the site.

Mr. Glazer stated the Board can listen to other witnesses at this point, and welcomed public comments, before proceeding to decide to adjourn or not.

Applicants' Engineer: Douglas Doolittle, P.E., L.S., P.P., McNally, Doolittle Engineering, L.L.C., 169 Ramapo Valley Road, Oakland, NJ 07436, was sworn and, having testified numerous times before this Board, he was deemed qualified as an expert testimony in engineering and planning.

Mr. Capizzi asked Mr. Doolittle a few questions before he provided his testimony.

Mr. Doolittle answered that he was at the site two days ago and have been at the site a handful of times over the past 3 – 4 months. While at the site, Mr. Doolittle stated that he had walked and measured the entire site. Mr. Doolittle referred to the original 2002 approved resolution and stated that there were conditions made on the original site plan improved by this Board; to add a drainage system that included three inlets along the property, and one in the rear over the existing drain. This was to be installed and made part of the approval.

Mr. Capizzi asked Mr. Doolittle to explain what is happening along the Silverstein property.

Mr. Doolittle referred to his As-Built Plan describing the water run-off between the curving of their property and the street curving. Mr. Doolittle proceeded to describe one side of the curving that was a little higher with no lip at the curve and no raising in the pavement to keep the water in the road; it is at the same elevation as the cul-de-sac. Furthermore, the cul-de-sac forces Mr. Silverstein's property to sit further back in the cul-de-sac and is situated much lower than other houses in the Glen Goin development. Mr. Doolittle described how the water run-off occurred; half from the catch basin coming off the roadway and half from the cul-de-sac, which runs right down Mr. Silverstein's driveway that is parallel to his side loading garage, into his turn-around area, to get into his garage.

Mr. Doolittle described an area that was contained; where the water runs past Mr. Silverstein's garage; and the area that was intended to pick up the run-off by the drainage, that was supposed to have gone in. A large portion did go in according to the original plan. Mr. Doolittle described inlets in the driveway on his plan and pointed out a new inlet in the back which connected to the drainage. He admitted that they only started to explore a couple days ago but were not

able to follow through and investigate further on how that functioned in terms of possibly adding a couple more inlets or seeing if the drainage ever went in, or was not covered.

Mr. Capizzi asked Mr. Doolittle to describe to what degree this inlet affected Mr. Silverstein's property. **Mr. Doolittle** answered it affected Mr. Silverstein's property only a small degree. Mr. Doolittle testified that the drainage as it exists is adequate; with the exception of exploring the drainage connection, which may be clogged or have broken over the course of 20 years. Mr. Doolittle also stated that they have not seen on site flooding over the 20 years. Mr. Doolittle also testified that he had reviewed the 2002 Collazuol Site Plan, the 2002 As-Built Survey and has prepared his own As-Built Survey dated June 15, 2022 with no revisions.

Mr. Capizzi requested Mr. Doolittle to provide his findings and assessments comparing the 2002 and 2004 Site Plans and As-Built Surveys. **Mr. Doolittle** presented his As-Built Survey [marked as Exhibit A – 6], and explained that he took his As-Built Survey (blue markings) and overlaid it on the Collazuol As-Built Survey [marked as Exhibit A 1 and Exhibit A - 2] (black markings). Mr. Doolittle then began to describe the differences in the plans; which shows that the Collazuol plan's driveway is substantially smaller, closer to the house, and the turn around area to get into the garage on the north side driveway, where the drainage system was proposed, is 25 feet wide, which is exceptionally narrow. Then it was opened up to 28 feet which is substantially wider in the back but it is still very tight. Mr. Doolittle stated that 28 feet turn around on a home like this is very tight. They generally prefer to have approximately 32 – 35 feet. Mr. Doolittle also described in further detail the changes and differences of the driveway that was pushed out and expanded, making the turn around substantially bigger to 48 – 50 feet in diameter which includes a 15 feet landscaped island in the middle. Mr. Doolittle also mentioned a comparison of other houses in Alpine or Saddle River where they have 40 feet turn around but they do not have an island in the middle providing more space for turning and parking.

Mr. Doolittle then presented and handed out Turning Template with Vehicle dimension documents [marked as Exhibit A – 3].

The following Exhibits were entered tonight and added to the exhibit list received for this application:

- O – 1 Letter for Adjournment from Richard A. Hubschman, Jr. Esq. on behalf of Michael Silverstein
- P – 2 Response to Request for Adjournment Letter from Matthew G. Capizzi, Esq. on behalf of Stan and Margaret Mankovsky
- A – 1 Plan copy of Final As-Built Survey (Lot 39 Block 49, Rionda Court) not sealed but signed by Steven J. Collazuol of John E. Collazuol & Associates dated 10/4/2005; Additions/revisions dated 12/6/2005, 12/22/2005.
- A – 2 Colorized Scale: 1" = 40' drawing
- A – 3 Graphic Scale In Feet drawings (2 drawings: a) vehicle size, b) driveway motor court)
- A – 4 Proof of Publication in The Record January 9, 2023;
- A – 5 Certified Mailing to Residents within 200' on January 6, 2023 per Tax Assessor's List dated January 5, 2023;
- A – 6 Application received January 9, 2023 at 3:00PM via hand delivery by Real Estate Agent; signed and dated January 9, 2023 with Rider and attachments:
 - o Proposals and Reasons for Relief
 - o Tax Collector's Proof of Payment of property taxes paid as of 1/9/2023
 - o 200' Property Owners list dated January 5, 2023
 - o **Note:** No Zoning Officer's Review
- A – 7 Photo Exhibit – set of 3 color photos not dated not signed
- A – 8 Prior Resolution: Zoning Board of Adjustment Resolution of Findings of Fact August 6, 2002
- A – 9 Engineering Plans signed and sealed by Douglas W. Doolittle, PE, LS, PP consisting of one page dated 6/15/2022:
 - o Dwg. No. AB – 1 As-Built Survey
- A – 10 Engineer review letter dated January 12, 2023 received January 17, 2023

Mr. Glazer asked if the cul-de-sac had changed in any way since the As-Built. **Mr. Doolittle** responded in the negative; not to his knowledge.

Mr. Doolittle described his vehicle and motor court exhibit (Exhibit A – 3). They took a typical 19-foot length SUV or Suburban ranged sized vehicle on the turning radius to depict ingress and egress in relation to the motor court. The first 2 drawings show ingress and egress, and the other 2 drawings show those drawings flipped. Mr. Doolittle confirmed that these situations exist today, and even with the enlarged motor court, there are still over-run issues with the 12-foot island cartway radius in the circle. Mr. Doolittle pointed out the Collazuol pool underneath the overlay with the rectangular patio and rectangular pool, and now it is an odd shaped, freestyle patio and freestyle pool which has been substantially changed. Mr. Doolittle stated that in terms of overall coverage in comparison to his plan and the Collazuol Plan, it is 1,284 square feet over but it is substantially the same footprint. Mathematically it is 544 square feet bigger than the originally approved Collazuol Plan but it is not physically any larger.

Mr. Capizzi asked Mr. Doolittle to describe the difference in scaling of the 2002 Collazuol Site Plan versus the McNally Doolittle 2020 As-Built Plan.

Mr. Doolittle explained that there is a slight shifting of the home to the back and a little to the left, as a result of the move back. The Collazuol Plan gave us 51.6 as the variance but it was built and constructed as 52.3. The Collazuol Plan shows a little bump out on the south side of 30 feet which pulled it in to 28.8, and caused the variance just in this little part of the bump out, not the entire wall of the house.

Mr. Capizzi summarized, basically stating that 500 square feet of additional coverage is the difference in how the footprint was calculated; the front of the house slipped back approximately one foot, adding additional impervious coverage in the driveway, and causing the driveway to get a little longer.

Mr. Glazer asked for clarification on this point.

Mr. Doolittle explained that the Collazuol Plan and his As-Built Plan are visually and identically the same dimensionally, but the calculation of the square footage it is 544 square foot higher than what was originally approved at 9%.

Mr. Glazer asked for an explanation for this discrepancy.

Mr. Doolittle offered an explanation that someone probably made a mistake in calculations. He further explained that the Collazuol Plan shows 9% with no decimal point or zero after that. They calculated at 10.36% using CADD which provides a closer calculation, that is much more accurate and depicts a much better picture. The 2002 Collazuol Plan that was done in 2002 was probably measured by a perimeter which gives one decimal (.1 or .2 difference) but this is not the total error. Mr. Doolittle stated that someone probably made a mistake in calculating the square footage of the home as well.

Mr. Glazer commented that AUTOCADD has been around since 1982 with 270 centers.

Mr. Doolittle answered that he does not know if AUTOCADD was used in this case and someone had to work to make those numbers work. **Mr. Capizzi** explained that from the 1,284 square feet overage, 544 comes from the different approach of calculating the same footprint of the home.

Mr. Doolittle explained that 740 square feet is the actual overage if 544 was not already added in. The patio was calculated in the Collazuol Site Plan and to be included, but when his As-Built was submitted with 25%, there was no patio around the pool and the numbers were the same. The patio got erased to make the driveway bigger. This is the As-Built Collazuol submitted to get the TCO back in 2004 or 2005.

Mr. Glazer commented that the Board did not have the Collazuol As-Built [Exhibit A – 1 entered].

Mr. Capizzi asked Mr. Doolittle if there would be a need for other drainage if they made adjustments.

Mr. Doolittle pointed out the Collazuol Plan was very vague; there are no break out or itemizations on the plan. It shows a drain in the plan and an inlet that may be needed; they were not able to find an inlet by pool. Whatever work that needed to be done (i.e., camera through the pipes, installing 12" pipes in the catch basin, and two inlets with a mini-excavator which would take approximately a week and a half), could be done by way of a conditional approval. Mr. Doolittle stated that something had been done but he does not know to what degree. They are willing to rectify that if this gets approved. Mr. Doolittle provided an approximation that nothing new had been built since; everything is well over 10-15 years old and all original to 2002.

Mr. Capizzi asked Mr. Doolittle to comment on Mr. Frenzel's Engineer Review Letter [Exhibit A – 10]. Mr. Doolittle stated that deficient issues covered in Mr. Frenzel and Mr. Gary Vander Veer's engineering letters from 2002/2004 have been addressed with the exception of the inlets and deciding on the drainage scenario that the neighbor is concerned with.

Mr. Capizzi reiterated Mr. Doolittle's testimony and confirmed that the only item to address is for Mr. Doolittle to make field observations and inspect the PVC pipes to determine whether it would be necessary to install or not. Mr. Capizzi then asked Mr. Doolittle to describe the work it would take if new PVC pipes need to be installed in which Mr. Doolittle did referring to the Collazuol As-Built from 2005 (last revised 10/4/2005, last revised 12/22/2005). Beyond the retaining wall, there is a 12" drainage pipe path that runs past Mr. Silverstein's property, and an inlet that is part of the existing drain, going down to the swamp. **Mr. Doolittle** stated the work can be done by conditional approval and it would take approximately one week and a half to replace the entire thing using a mini excavator.

OPEN TO THE PUBLIC

Ms. Herries commented that she was troubled by how we were proceeding. Ms. Herries stated that Mr. Silverstein has an attorney and an engineer, who could not be here tonight to hear this testimony. She felt it was inappropriate to go forward with the testimony. Ms. Herries pointed out that Mr. Doolittle's assessment was from June 15, where these issues were identified, and she questioned why 7 months later we have this crisis. Ms. Herries inquired how it came to be such an emergency. She also stated that the Board always gives the courtesy of a 30-day extension, and even if they agreed to grant variances, there is a lot of work that needs to be done.

Michael Silverstein, 14 Rionda Court, commented that this has been an on-going issue for the past 20 years.

Mr. Herries replied that was a different issue.

Mr. Glazer noted that Mr. Mankovsky purchased the house in 2006, and never got a CO.

Mr. Capizzi responded that Title companies do not get involved in CO's and Mr. Mankovsky can speak for himself on this.

Mr. Glazer opened the floor for anyone in the public to question the witnesses.

Ms. Herries made a **MOTION** to adjourn the hearing. Ms. Herries stated that it was not fair for neighbors not to have their professionals be present for this hearing, and they had given the absolute bare minimum notice to the neighbors. Mr. Glazer started roll call for the motion:

Vote – Ayes: Mr. Bonhomme, Ms. Herries

Vote – Nays: Mr. Abad, Mr. Barbieri, Mr. Policano, Mr. Pomerantz, Mr. Glazer

Absent: Mr. Clores, Ms. Lerner

MOTION FOR THE HEARING

Mr. Glazer offered Mr. Silverstein the floor.

Mr. Silverstein requested to be read into the record Page 5 of Section V Conclusions of the Borough Engineer's review letter to which Mr. Doolittle acquiesced.

Mr. Capizzi requested for a quick break to speak with Mr. Silverstein to understand his issues in order to resolve them offline. **Mr. Silverstein** declined and wanted everything on record. Mr. Silverstein continued and asked Mr. Doolittle for his interpretation of the engineer review letter.

Mr. Doolittle responded that his interpretation is to bring the plans up to the approved conditions according to the original plans and/or come back in front of the Board to get the appropriate approvals; for adding drains if that is what is required. Mr. Doolittle stated they are willing to work with Mr. Michael Hubschman and the town, to install drains according to the original approvals or mediate that should they be approved tonight.

Mr. Silverstein expressed his frustration stating they were denying his right to have his attorney present.

Ms. Landolfi replied that they were not denying his rights; just that his attorney was not available to attend tonight.

Mr. Glazer commented that there are numerous attorneys that could have answered his call.

Mr. Silverstein complained that they never came back to the Board regarding this matter and the report was received only days ago. **Mr. Capizzi** replied they are here tonight and aside from drainage that did not get installed, some data was missing from previously submitted Collazuo plan. **Ms. Landolfi** replied that according to Municipal Land Use Law N.J.S.A. 40:55D, Borough Engineer's review letters are not held to the 10-day notice requirement.

Mr. Doolittle and Mr. Silverstein started to discuss drainage on the plans that were on display and talked about maintenance issues.

OPEN TO THE PUBLIC

Mr. Kupferschmid, 6 Cassandra Drive: asked specifically what Mr. Silverstein's issues are.

Mr. Silverstein responded that from his recollection, there are 5 issues one of which is a drain in the back that gets clogged, but he will know specifically what the issues are when Michael Hubschman can be here. Mr. Silverstein expressed frustration and wanted to know what the rush for this was.

Mr. Capizzi replied that there are financial stressors and banks are not going to extend the deadline. Mr. Capizzi continued and asked Mr. Doolittle based on field observations if there were drainage issues, and whether maintenance was necessary. Mr. Doolittle replied that they can get a camera in the pipes, jet the PVC pipe and clean the obstruction. These are maintenance issues that can be easily taken care of. Then they can determine whether the inlet should be added or not.

Mr. Doolittle further explained that there is drainage run-off in the area that is somewhat excessive, causing erosion on Mr. Mankovsky's property. They only had 3 days to research but basically, they would need to pump the drains out because they are holding water, go in with a sewer camera to figure out if they are clogged or broken.

Mr. Silverstein stated that Charlie Hoffman was on the site last night and confirmed there were some problems with drainage on his driveway and run-off going straight into his house.

Mr. Capizzi agreed that they have some house-keeping to do and some maintenance issues that need to be taken care of; which are routine and relatively achievable.

Mr. Silverstein asked if they would be willing to work with his engineer to resolve the issues because it would make him more comfortable. Mr. Doolittle replied that he knew Mr. Hubschman well and agreed to work with his engineer.

Stan Mankovsky, 10 Rionda Court was sworn in.

Mr. Capizzi asked Mr. Mankovsky if he did any work to enlarge the motor court, driveway area, made changes to the pool patio, modified the orientation to the pool area and if he noticed any drainage issues or had any complaints on drainage issues from neighbors or adjacent properties. **Mr. Mankovsky** replied in the negative.

Mr. Capizzi asked Mr. Mankovsky when he realized that he did not have a CO. **Mr. Mankovsky** replied that he thought he had a CO when he purchased the property back in 2006 otherwise, he could not have closed. Furthermore, Mr. Mankovsky confirmed that when he went down to the building department, he was not aware of any issues. He only became aware that he did not have a CO in June 2022.

Mr. Capizzi stated that Mr. Mankovsky was not included in any historical correspondences from Mr. Vander Veer dating back to 2005/2006, and carbon copies of letters were sent to the builder. Mr. Mankovsky testified that he is agreeable to undertaking the maintenance work and installing additional inlets if it was necessary.

Mr. Silverstein asked Mr. Mankovsky after being in the mortgage business for 15 years, how he did not know that he needed a CO. Mr. Mankovsky responded that he thought he had the CO which is why he was able to close on the house in 2006.

OPEN FOR BOARD COMMENTS

Mr. Capizzi asked **Mr. Mankovsky** and he confirmed that he had never heard from his neighbors regarding drainage issues and this is the first time he is hearing of an issue from Mr. Silverstein.

Mr. Silverstein asked if Mr. Mankovsky had any flooding to which Mr. Mankovsky stated he had some flooding during Hurricane Sandy and did some work to rebuild his basement.

Mr. Pomerantz commented that he also had flooding during the huge storm of Hurricane Sandy and inquired who Mr. Silverstein was representing to which he stated he was representing himself.

Ms. Herries inquired what the Board was being asked to approve.

Mr. Capizzi responded it would be appreciated if the Board had enough information, for them to make a determination on the variance application for building and impervious coverage due to deficient setbacks, relative to the work that occurred in 2004. The Building Department's position is that they would not be issued a CO or TCO until this zoning issue is rectified; because they could not approve what was built (whether it was right or wrong), and submitted to them.

Ms. Herries asked if the island in the motor court could be removed.

Mr. Capizzi answered that would increase the impervious coverage.

Mr. Glazer commented that they had more than an impervious coverage issue; their building coverage is substantially overbuilt.

Mr. Capizzi agreed that his Client had a problem and so does the borough because his Client has been in possession of the property and been paying taxes on it since 2006. There was no directive to take any remedial action.

Mr. Glazer stated that they were provided with a deficient plan with inaccuracies.

Ms. Herries interjected that they were provided with an engineering plan that was inaccurate.

Mr. Capizzi was not stating there is any culpability of the Zoning Board. He is stating that Mr. Mankovsky is bearing the blunt of all this. Mr. Mankovsky recognizes there are issues, thus presenting this application to the Board to clear them up.

Mr. Glazer stated he was perturbed by overages that are so huge, in building envelope and impervious coverage, and asked if Mr. Frenzel can provide his insights.

Mr. Capizzi explained that they are showing the explanation of what is on the plan was built in the field, and the plan was not properly measured. Mr. Capizzi pointed out that the impervious coverage is really necessary and essential to the functionality of the site; and even with the additional impervious coverage, the motor court still has functionality issues.

Mr. Frenzel stated there was an initial inquiry in the middle of summer on getting a CO for a possible sale in the future for this property. There were certain issues that needed to be rectified in order for a CO to be issued. In response, Mr. Mankovsky hired McNally Doolittle to do a new As-Built Survey. The original Site Plan that was submitted and approved was never updated to what Mr. Vander Veer asked them to do, and it was never brought up to standards. There was never a fully accepted As-Built on this property. Also, over time, AutoCADD became more accurate but there are still hiccups in using it proficiently especially for smaller engineering firms; but for the Collazuol Site Plan to be off by 15% is mind blowing. The latest As-Built by McNally Doolittle can be assumed to be accurate. The building coverage is excessive (it is over by 1.36% which translates to approximately 555 square feet of footprint area or 544 square feet of footprint area of the house) and the lot coverage is over by 3.21% (yielding 1,284 square feet of excessive coverage). The original Collazuol Site Plan shows many inconsistencies: 1) The motor court having a radius of 20 feet (As-Built radius shows 27 square feet); based on Mr. Doolittle's testimony, the builder apparently saw the design of the circle was too small and took it upon himself to make it bigger without getting approvals; 2) Plan shows a rectangular pool with a large 5-foot rectangular patio all around it with a waterfall feature that is not on the plan. We need to figure out how to rectify these mistakes and deal with these items. This is a complicated issue for the Board to decide; basically, have them bring it up to the required coverages and have them resolve drainage issues to get it to where it needs to be, or do we have forgiveness given these reasons as explained by the applicant? In his opinion, it would not make sense to have Mr. Mankovsky cut 555 feet of his house when he has occupied it for 20 years; or rip out and reduce the overages and make it useless.

Mr. Capizzi requested for a short break at 9:27 PM.

The meeting was called to order by Mr. Glazer and reconvened at 9:35 PM.

Mr. Capizzi offered that they can modify the plan: Remove 750 square feet (out of 1,284 sq. ft.) of patio around the pool; dropping 1.8%; new overall coverage: 26.3%

Mr. Glazer commented that there are still a lot of questions regarding drainage: the culvert in the back, maintenance issues of whether it needs to be rebuilt, pumped out, or snaked through, and put a camera through to see what is going on. He does not feel he is ready to make a decision that removing 750 feet will satisfy these conditions.

Ms. Herries inquired who would be responsible to ensure these conditions will be addressed when ownership changes again in 2 weeks.

Mr. Capizzi stated that the Board can place conditions on the approval with site inspections, verifications through camera inspections and have Mr. Frenzel verify no repairs are necessary. The Board can have the Title be attached to the Resolution or CO to ensure the successor or new ownership will be aware of these conditions. Mr. Capizzi further argued that there is a 15 feet buffer between the retaining wall and Mr. Silverstein's property; his property being below.

Mr. Glazer commented that somehow there is still water that is going on to his property.

Mr. Capizzi stated if it is necessary, they would install a new drain and they would have no issue working with Michael Hubschman and the Borough Engineer. The run-off is all going into seepage pits now.

Mr. Glazer stated that there is still 1.3% overage on coverage and affirmed that more should be taken off because there are problems with water in the area; and with impervious coverage. There is water that is standing there. The courtyard in the front is a big impervious area.

Mr. Capizzi argued that 540 square feet overage is the house and if they could remove what is practical, they would. There have been no regional drainage issues and no neighbors that have complained about it except Mr. Silverstein.

Ms. Herries commented that there may be reasons why no neighbors have complained about water problems there in over 20 years; they assumed previous conditions were satisfied.

Mr. Doolittle stated that the 540 feet is designed into the system and reducing 750 feet can only be making things better.
Mr. Bonhomme stated that the Board should have more time to deliberate as they have only had 2 days to review this and he has not visited the site, and made a MOTION to adjourn.

Mr. Capizzi pleaded that the financing ability to close on this short sell expires February 3, 2023 and if the Board adjourns, it is over for them. This will not be a matter next month. They are offering a neighborhood benefit tonight; removing 750 feet around the pool and whatever condition the Board wants to place on the Certificate of Occupancy. If this does not work out, we will not be able to close, the bank forecloses on the property and these conditions sit for another 3 -4 years until it is sold to someone else.

Ms. Herries asked again how this came to be such an emergency, and how we can ensure conditions are adhered to after the short sell instead of ending up in a drawer and problems not being fixed or addressed.

Mr. Glazer asked how when Mr. Tolerico finally sold this property and had people move in without a CO.

Mr. Capizzi commented that Mr. Mankovsky was the only occupier of the house.

Mr. Glazer asked how Mr. Mankovsky had moved in without a CO.

Mr. Mankovsky stated he did not know that he did not have a CO.

Board Secretary commented that the building department had issued a TCO which expired 20 years ago.

Mr. Capizzi stated he was not aware of a TCO.

Mr. Pomerantz made the MOTION to approve the variance and Mr. Abad **SECONDED** with conditions.

OPEN FOR PUBLIC COMMENTS None.

Resolution: Stan and Margaret Mankovsky's Approval of 10 Rionda Court Variance Relief

Motion by: Mr. Pomerantz **Seconded by:** Mr. Abad

At a meeting of the Alpine Zoning Board of Adjustment held on January 19, 2023, the Board approved the variance relief for the applicants at 10 Rionda Court, also known as Block 49 Lot 39 on the tax assessment map of the Borough of Alpine with the following conditions:

- Removal of 750 square feet cement patio around the pool
- Satisfy Borough Engineer's investigation of drainage issues and resolved appropriately
- All open conditions prohibiting CCO must be met and the applicant must obtain a CCO
- Resolution to be recorded with Title

Vote: Ayes: Mr. Abad, Mr. Barbieri, Mr. Policano, Mr. Pomerantz

Vote: Nays: Mr. Bonhomme, Mr. Glazer, Ms. Herries

Absent: Mr. Clores, Ms. Lerner

MOTION APPROVED

OPEN FOR COMMENTS

Mr. Glazer opened the floor for Public Comments and welcomed Mayor Tomasko who has been a constant and reliable audience member of the Zoning Board meetings. Mayor Tomasko complimented the Board on the thoroughness of the deliberations especially given this complicated case.

OTHER BUSINESS:

Resolution: Approval of 2022 Annual Report

Motion by: Mr. Abad **Seconded by:** Mr. Barbieri

Approved by all those eligible to vote.

Vote: Ayes: Mr. Abad, Mr. Barbieri, Mr. Bonhomme, Mr. Glazer, Ms. Herries

Abstain: Mr. Policano, Mr. Pomerantz

Absent: Mr. Clores, Ms. Lerner

MOTION APPROVED

Resolution: Approval of 2023 Budget

Motion by: Mr. Abad **Seconded by:** Mr. Barbieri

Approved by all those eligible to vote.

Vote: Ayes: Mr. Abad, Mr. Barbieri, Mr. Bonhomme, Mr. Glazer, Ms. Herries

Abstain: Mr. Policano, Mr. Pomerantz

Absent: Mr. Clores, Ms. Lerner

MOTION APPROVED

ADJOURNMENT

Upon a Motion by Mr. Barbieri, seconded by Ms. Herries, the meeting was adjourned at 9:56 PM.

Vote: Ayes: Mr. Abad, Mr. Barbieri, Mr. Bonhomme, Mr. Glazer, Ms. Herries, Mr. Policano, Mr. Pomerantz

Absent: Mr. Clores, Ms. Lerner

MOTION APPROVED

Respectfully submitted,

Jo Anna Myung
Board Secretary