

ALPINE ZONING BOARD OF ADJUSTMENT

Regular Meeting

Thursday, April 20, 2017 7:30 P.M.

(This meeting was 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 7:30 p.m., Thursday, April 20, 2017 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, the notice of this regular meeting held Thursday, April 20, 2017 has met the requirements of the law by being published in The Record on January 6, 2017 and posted on the bulletin board in the lobby of the Borough Hall and a copy filed in the office of the Borough Clerk.

ROLL CALL

Richard Glazer	Present	Tony Clores	Absent
Bob Burns	Present	David Kupferschmid	Present
Richard Bonhomme	Present	Steve Cohen	Present
Anthony Barbieri	Present	Jeffrey Mayer, Alt I	Present
George Abad, Jr, Alt II	Present		

Staff Present on Dais: Attorney Michael Kates, Borough Engineer Gary Vander Veer, Board Secretary Nancy Wehmann

COMMUNICATIONS

Annual Notice of Alpine Civil Rights Policy distributed to all Board Members.

PROCEDURAL MOTIONS

Resolution: Approval of Minutes March 16, 2017 Upon a motion by Mr. Cohen, seconded by Mr. Barbieri and approved by all those eligible to vote at this regular meeting of the Alpine Zoning Board of Adjustment held on Thursday, April 20, 2017 to approve the minutes of the regular meeting held on March 16, 2017. **MOTION APPROVED**

Resolution: Approval of Bills and Claims Upon a motion by Mr. Cohen, seconded by Mr. Bonhomme at the regular meeting of the Alpine Zoning Board of Adjustment held on Thursday, March 16, 2017 to approve the following Bills and Claims:

Azzolina & Feury	Escrow Tabak 30/2	Inv. 67692	572.25
Azzolina & Feury	Escrow Schwartz 22/2	Inv. 67701	436.00
Azzolina & Feury	Escrow Kim 75/10	Inv. 67716	354.25
Kates, Nussbaum, et al	7-01-21-185-021	Inv. 22545	600.00
Kates, Nussbaum, et al	Escrow Tabak 30/2	Inv. 22544	981.00
Kates, Nussbaum, et al	Escrow Schwartz 22/2	Inv. 22543	189.00

Vote: Ayes: Bonhomme, Burns, Barbieri, Kupferschmid, Cohen, Mayer, Abad, Glazer **MOTION APPROVED**

MEMORIALIZATIONS

Tabak Block 30 Lot 2 12 Highwood Place Attorney Kates reviewed the resolution noting the application was heard over two meetings resulting in revised plans and a reduction in the degree of relief requested and granted.

Resolution: Upon a motion by Mr. Mayer seconded by Mr. Glazer to approve the application for Applicant Aleksandriya Tabak to construct a pool, patio and cabana in the rear yard, ancillary to a new home under construction with approval for a cumulative soil moving permit along with waivers from Chapter 185-3(D)(2)d to exceed by 2 ½ feet the limits for fill greater than five feet above original grade and Chapter 198-6 to allow top of the swimming pool peripheral walls at 6.9 feet above original grade where the limit is no greater than 5 feet above natural elevation and no more than 30% of the peripheral walls greater than 3 feet above natural elevation. Application further includes a variance from Chapter 220-13.B(4)(b) for accessory structures to permit a cabana height of 17.75 feet where 15 feet is the limit. The aforementioned approval is subject to conditions as outlined in the resolution for this property located at 12 Highwood Place designated as Block 30 Lot 2 on the Tax Assessment Map of Alpine, New Jersey, Bergen County. This resolution is on file at the Borough of Alpine, 100 Church Street, Alpine, NJ for review and a copy attached to these minutes.

Vote: Ayes: Abad, Cohen, Kupferschmid, Mayer, Glazer

MOTION APPROVED

Schwartz Block 22 Lot 2 – 12 Tulip Tree Lane Attorney Kates reviewed the resolution.

Resolution: Upon a motion by seconded by to approve the application for Applicants Jeffrey and Iris Schwartz to sanction alterations in the construction of an in-ground pool and patio not conforming to a previously approved development application and construction plans on November 19, 2015. The alterations resulted in a net reduction in the degree of variance relief granted from 40:55D-70d(1) to construct an in-ground swimming pool and patio encroaching into the "B" Buffer Zone. There is a net decrease in improved coverage of 54 square feet and the rear edge of the patio is 170.7 feet from Route 9W instead of 169.5 feet as previously approved. Said approval is subject to conditions as outlined in the resolution for this property located at 12 Tulip Tree Lane designated as Block 22 Lot 2 on the Tax Assessment Map of Alpine, New Jersey, Bergen County. This resolution is on file at the Borough of Alpine, 100 Church Street, Alpine, NJ for review and a copy attached to these minutes.

Vote: Ayes: Abad, Cohen, Kupferschmid, Mayer, Glazer

MOTION APPROVED

PUBLIC HEARING - NEW Kim Block 75 Lot 10 – 18 Overlook Drive

Attorney Matthew G. Capizzi of Capizzi Law Offices, 11 Hillside Ave., Second Floor, Tenafly, NJ 07670 appeared with, and on behalf of, Applicant Jae Kim of 18 Overlook Drive, Alpine, NJ designated on the tax map as Block 75 Lot 10. Also appearing was Applicant's engineer, Douglas Doolittle, P.E. P.P., of McNally Engineering, Inc. 169 Ramapo Valley Rd., Oakland, NJ.

Opening statement. Attorney Capizzi stated Mr. Kim purchased this property in April 2016 as currently exists. The single-family home was built 2-3 years prior. The site has a unique driveway consisting of two cobblestone strips that lead to a narrow turnaround by the garages that is constrained by a retaining wall near the property line. After moving in he discovered the tight turning radius and narrow tire treads were a problem. They tend to overrun the strips tearing up the lawn which is unsightly. Because it's too tight to turn around he has to back out of the driveway and feels this is a safety hazard. He has young children running around, his neighbor's driveway is very close to his and Overlook Road is a narrow lane. Delivery trucks double park in the street because they don't want to attempt the narrow drive.

They propose to fill in the median, widen the driveway, replace the retaining wall by the garage bays with a rockery to increase the turning radius, add landscaping and install more drainage improvements. The proposed requires a variance to increase the maximum allowed improved coverage to 24.36% where 21.30% exists and 20% is the maximum permitted. They also need a soil movement waiver to permit a 1:1 slope for the rockery where 4:1 (H/V) is the max allowed.

Mr. Capizzi provided 5 photos **[A-10]** taken 4/19/2017 by his office; a different set from those submitted with the application.

Exhibits noted:

- A – 1 Proof of Publication on April 10, 2017 in The Record.
 - A – 2 Certified Mailing to Residents within 200' on April 10, 2017 per Tax Assessor's List dated *September 22, 2016 same as that refreshed April 20, 2017.*
 - A – 3 Application Form signed and dated January 26, 2017 including:
 - Proposal & Reasons for Relief
 - Tax Collector's records show taxes paid through 1st Qtr. 2017
 - A – 4 Application for Zoning Review submitted December 22, 2016
 - A – 5 Five colored photos submitted by McNally Engineering labeled Photos #1-#5 dated January 3, 2017
 - A – 6 Plans prepared by McNally Engineering, LLC 169 Ramapo Valley Road, Oakland, NJ 07436 consisting of 1 pages:
 - Drawing No. SP-1 entitled "Site Plan" dated November 14, 2016 last revised #2 February 14, 2017 "revised per AF comments"
 - Drawing No. VM-1 entitled Vicinity Map dated December 8, 2016
 - A – 7 Storm Drainage Report prepared by McNally Engineering dated February 16, 2017
- From our files:*
- A – 8 Borough Engineer's letter dated February 2, 2017
 - A – 9 Borough Engineer's letter dated March 2, 2017

And marked during the course of these proceedings: April 20, 2017

- A – 10 Set of 5 colored photos taken by office of Matthew Capizzi on April 19, 2017
- A – 11 Plan prepared by McNally Engineering, LLC 169 Ramapo Valley Road, Oakland, NJ 07436 consisting of 1 pages: Site and Septic System As-Built for Chuchalov dated June 18, 2013 Rev. 1 July 2, 2013 "revised per Azzolina Feury review letter dated June 26, 2013"
- A – 12 One colored photo taken by office of Matthew Capizzi on April 19, 2017

Also marked during the course of these proceedings as submitted by Dr. Lawrence Rabinowitz of 23 Forest Street, Alpine, NJ

- O - 1 Document entitled "Improvements made over the last 4 years"
- O - 2 Document entitled "23 Forest Street" googled and printed from a website called "NJ Parcels."
- O - 3 Google Earth colored photo depicting aerial shot of 18 Overlook Road and surrounding lots.
- O - 4 Colored Photo of seepage pit located on 22 Overlook Road
- O – 5 Colored photo depicting 3 pipes draining into a ditch at the northeast of Dr. Rabinowitz's property. Dr. Rabinowitz reported sources are 22 Overlook Road, 26 Overlook Road, and 27 Forest Avenue (not 18 Overlook Road)
- O – 6 Colored photo of the river rock drainage system at the rear of 18 Overlook Road.

Douglas Doolittle, P.E. P.P., Applicant's engineer, was sworn and qualified to provide expert testimony in his fields.

Existing Conditions. Mr. Doolittle described existing conditions referring to the Site Plan [A-6]. The rectangular lot, located on the southwest side of Overlook Road, is oversized at 26,099 square feet where 20,000 square feet is required and 100 feet wide by 260 feet deep with a ten-foot downhill slope from front to rear. There is a greywater septic field in front of the single-family home, a patio, deck and pool with some retaining walls and a blackwater septic field in the rear. Mr. Doolittle's office prepared the As-Built Survey (dated 6/18/2013 last revised 7/2/2013 and marked [A-11]) for the prior owner, Mr. Chuchalov, which was approved at 19.96% improved lot coverage. While preparing this application, they noted the deck and expanded patio which the Building Department confirmed was unpermitted and apparently installed by the prior owner/developer who reportedly lived there for about a year prior to selling to Mr. Kim. These additions exceeded the maximum improved coverage. Mr. Doolittle repeated Mr. Capizzi's description of the driveway adding the turnaround is narrow at 25 feet making it very difficult to turn around or navigate. Mr. Doolittle also had a tough time staying on the treads.

Proposal. They propose adding more Belgian block pavers to widen the mouth and width of the driveway to 16 feet. They want to remove the retaining wall, add four feet of pavers to the turnaround and install a rockery with a 1:1 slope which will effectively provide 30 feet of turnaround space including room for bumper overhang. The proposed will be more aesthetic and allow the Kims to turnaround by the garages and exit the drive front ways which is safer.

Drainage. The current system drains everything to an existing detention / retention system at the rear property line and they will add an additional 2½ foot wide trench of clean stone for the length of the system. The drainage calculations submitted to the Borough Engineer include the additional square footage for the expanded patio and deck.

Landscaping. Two pine trees exist and they will add three more plus plant the rockery.

Chairman Glazer opened the hearing to the public for questions. There were none. Chairman Glazer invited questions from the Board.

The Board received clarifications on the retaining wall, rockery, width of driveway and garage doors, vehicle storage during construction and affirmation there is no tree buffer in this zone.

Mr. Vander Veer asked Mr. Doolittle to explain to the Board why the driveway consists of two narrow strips. Mr. Doolittle advised the Chuchalov site plan was approved at 19.96%. The prior owner would have needed variances or waivers to expand the driveway but did not seek any.

Mr. Vander Veer asked Mr. Doolittle to review his letter of March 2, 2017 [A-9]. Mr. Doolittle stated they can meet all the requirements. Mr. Doolittle acknowledged they have to remove or replace existing evergreens on the retaining wall. They need a pond liner on the wall side but may be able to flip it to the other side and save the trees. The distance to the septic system is tight. They need to review prior plans to see if a pond liner was installed and if not they will need to do so. Mr. Vander Veer will also require a pond liner on the downhill side of any new drainage provisions. Mr. Doolittle agreed noting he has not seen any evidence of leaching or erosion on the downhill side of the wall; the area is stable and dry. Mr. Vander Veer questioned adding drainage to the front rather than all of the drainage going to the rear. Mr. Doolittle stated they want to remain consistent with the original design. A river rock swale on the side leads to an inlet piped to the seepage pit at the rear. The greywater system takes up most of the front yard leaving only a small area; they'd be too close to this system and it would not be practical.

Chairman Glazer questioned reducing the driveway width from 16 to 14 feet. Mr. Doolittle advised that could work but was not sure how the pavers will interlock as if they make it too narrow it will reduce stability. The change would compute to 114-116 square feet less coverage;

or about 1%. Applicant would agree to that. Mr. Kupferschmid questioned use of pervious pavers. Mr. Doolittle felt that would contradict the design criteria.

Jae Kim, the Applicant, was sworn and explained how he has to back out of his driveway which makes it hard to see his two children, ages three and four, who are always running around. It's hard to stay on the treads. Going out front ways would make it easier to see them and also anyone coming out of his neighbor's driveway which is very close to his in case they pull out at the same time. These are safety and line of sight issues.

Attorney Kates asked how a K turn would work? Mr. Doolittle demonstrated on the site plan **[A-6]** noting currently it requires more of a six point turn.

Being no further questions Chairman Glazer opened the hearing to comments from the public.

Dr. Lawrence Rabinowitz, of 23 Forest Street, was sworn and provided a packet of information marked during the course of the proceedings **[O-1 to O-6]**. Dr. Rabinowitz has lived here 28 years and is familiar with 18 and 22 Overlook Road. He and his neighbor at 19 Forest Street have a significant problem with water and drainage subsequent to the neighborhood development that has occurred over the past four years that he would like to address. Dr. Rabinowitz explained he is very sympathetic to the Applicant and for his children and does not blame Mr. Kim for the drainage problems that existed before he bought the property.

His first document **[O-1]** describes recent improvements at 27 Forest Street, 18 Overlook Drive and 22 Overlook Drive and the impacts to 19 and 23 Forest Street. His aerial photo **[O-2]** shows the properties as they originally looked with lots of mature trees to soak up water, no rear yard septic and only a small pool on 22 Overlook Road. His home is outlined in a white box with 27 Forest on the right and 19 Forest on the left.

In 2012 the Board approved a variance for Mr. Kim at 27 Forest Street to remove a shed/garage that interfered with his septic system permitting him to attach a new garage to his house. This expanded the lot creating a little more of a drainage issue. A more recent aerial photo **[O-3]** shows that lot and redevelopment of 18 Overlook Drive with all the trees removed and a new septic system in the rear plus redevelopment in progress at 22 Overlook Road which also required a new septic system in the rear. Drilling went on for days to remove large amounts of rock. The pool remained. The trees are gone. There is much less ability to absorb water and all that water from 18 and 22 Overlook floods over to the two properties at 23 and 27 Forest Street.

Attorney Kates interrupted to mark Dr. Rabinowitz's exhibits and clarify sources and dates. **[O-2]** is from the "NJ Parcels" website. It is undated but from personal knowledge has to be before 2012. It shows the shed on 27 Forest Street that was removed after this Board's approval in 2012.

Attorney Capizzi pointed out Dr. Rabinowitz's claims are not particular to his client's project. Absent the composite deck/patio issue their property will comply with engineering and drainage requirements. The burden should not fall on the applicant to address the whole area. Chairman Glazer agreed but stated the Board wished to hear Dr. Rabinowitz's comments.

Dr. Rabinowitz continued noting he did not think the problems were Mr. Kim's or anyone else's fault but the drainage problems are hugely different since these 3 lots were redeveloped.

[O-4] is a photo depicting a 1,000 gallon seepage pit on 22 Overlook Drive installed while the property was being developed.

[O-5] is a photo of the northeast corner of Dr. Rabinowitz's property with three different PVC pipes dumping into it, one from 22 Overlook Road, one from 27 Forest Street and one from 26 Overlook Road. He made clear none of these pipes comes from 18 Overlook Road.

[O - 6] is a photo of the back of Mr. Kim's property now consisting of a big field of river stone. While the purpose is to percolate the water, Dr. Rabinowitz opined it does not effectively control it.

Dr. Rabinowitz pointed out 22 Overlook Road is directly behind his property and was improved without any variances or waivers so nobody got to comment on it. They have a pipe coming into his lot. He and his wife are the only ones managing that little tributary which drains to the Demarest Brook. He would like the town to work with them to resolve these drainage issues.

Mr. Burns asked where the seepage pit [O-4] drains to. Dr. Rabinowitz responded it's located on the southeast corner of 22 Overlook Road near the abutment with the northeast corner of his property. Mr. Burns asked if they could tie the pipes into that seepage pit. Dr. Rabinowitz responded he has some ideas but he is not an engineer. He invited the Board members and Borough Engineer to visit Forest Street, particularly when it rains, to see the amount of standing water that is overflowing some storm drains and not making it to others.

Chairman Glazer asked if there were any questions from the public for Dr. Rabinowitz. There were none. He opened to the Board members.

Mr. Cohen asked if Mr. Kim's proposal would exacerbate the drainage issues. Dr. Rabinowitz felt the drainage proposed would still be inadequate. The area has a high-water table and a huge amount of rock; the water's not going anywhere. A broader solution is needed. The water is finding its own path and it's not in line with the current drainage system on Forest Street. If the town and neighbors could come together as a group they could resolve this issue.

Mr. Vander Veer advised he probably oversaw all the drainage installations for the redevelopments which were designed and installed according to standards relied upon by engineers to ensure all the runoff from impervious coverage areas is captured and percolated underground. During installation, he looks at subsurface conditions and if there is any indication of a high ground water table and the seepage pit has water in it, they have to put more in to address the problem. The Applicant now proposes a second comparable system. He was not aware of the condition depicted in [O-5] and wishes to inspect the pipes draining onto Dr. Rabinowitz's property. Dr. Rabinowitz acknowledged the pipes have nothing to do with Mr. Kim's property and while he was sure all the engineering calculations were performed correctly, he lives there and there's a ton of water. There has to be enough absorptive power for a system to be viable. He took the photo [O-5] yesterday. He's not suggesting they did anything wrong but he is suggesting that it ended up inadequate.

Chairman Glazer recommended Mr. Vander Veer review existing conditions. Dr. Rabinowitz stated that was not his purpose as it would harm Mr. Kim and not help the neighborhood drainage issue; he wants him to have his driveway. Attorney Kates clarified while the Board cannot address the larger issue it can seek to ensure this application doesn't exacerbate the problem. Attorney Capizzi felt Mr. Vander Veer had already assured the Board that would not be the case as the current system is designed according to standard engineer practices.

Mr. Kupferschmid offered this application represents another bigger problem. This is a massive house shoehorned into a very narrow lot which is happening more and more. Developers come

in, build right to the max and then the buyers who are unaware find the property doesn't really work for them and say they need relief. It's not totally their fault but they also have a responsibility to perform due diligence and be subject to "buyer beware." This is becoming a recurring pattern on the smaller lots in Alpine and he will ask the Planning Board to also look at this issue because it's going to happen over and over again. Mr. Mayer agreed they need to think about how they treat these kinds of applications. It's difficult because the Applicant didn't cause it. The builder did by not factoring in the driveway and here they have a double issue with the deck and patio that were constructed without permits. Now the Board is asked to approve an illegal extension of a building and the widening of a driveway that is going grossly over the numbers and why? Because the developer built a really big house on a tiny lot.

Attorney Capizzi opined pausing this application to address a potential modification to the Zoning Ordinance would not add relief as most builders are respectful. However, Board members were able to recall similar issues on Litchfield Way, Dogwood Lane and Route 9W. Chairman Glazer agreed this property was under 20% and didn't go over until the builder surreptitiously added the deck/patio in the back.

Attorney Kates noted even though Mr. Kim did not cause the problem, his predecessor did and the law suggests it is a self-created hardship. The Applicant has sited convenience and his children but those are not a basis for a variance either. A variance runs with the land. He hasn't seen any proofs related to a deficiency that is not a self-created hardship.

Attorney Capizzi noted neither he nor the applicant are happy with the application but you don't typically think about a driveway until you move in. He was unaware of the deck/patio being a problem and they also feel duped. If he had known he might have passed on the house or offered a different price. Under a (c-2), the patio/deck and the driveway could be justified as enhancements to safety and improvement of aesthetics. Attorney Kates noted (c-2) is a broader concept requiring proofs of a greater zoning alternative predicated upon the objectives of planning. He is testifying but needs a planner to support his claims. What is the greater good? Attorney Kates sees the greater problem with overbuilding, as noted by Mr. Kupferschmid.

Mr. Kupferschmid offered a solution, albeit expensive, would be to replace the existing driveway with pervious pavers. Mr. Vander Veer noted while those address stormwater management they would still be considered improved coverage for purposes of the ordinance. Attorney Kates noted while not mandated to do so, the Board has discounted the use of pervious pavers in theory and they could be considered a better zoning alternative. Mr. Doolittle noted the deck being wood is somewhat pervious as water runs through the slats but it, too, has to be counted as improved lot coverage. Attorney Capizzi distributed a photo [A-12] to show the expanded patio to the pool coping with a glass partition to the right.

Mr. Kupferschmid asked to review the prior As-Built [A - 11] and Mr. Doolittle reviewed the areas they had marked to remain as grass where the deck and patio were later constructed. The deck is about 280 square feet or about 1% improved coverage. The Board noted there are alternatives to minimize the impact of the application such as eliminating the deck/patio and reducing the width of the proposed driveway. Drainage is a separate issue. Attorney Capizzi offered although reduced, they would still need some degree of variance. He requested a brief recess to confer with his client and their engineer.

Recess Chairman Glazer granted a recess from 8:43 PM to 8:51PM.

Upon their return, Attorney Capizzi asked Mr. Doolittle to review drainage patterns based on Dr. Rabinowitz's comments. Mr. Doolittle had observed, during yesterday's rainy day inspection, that a lot of stormwater comes down the neighbor's driveway and cuts in through their retaining

wall into their drainage system. He asked Mr. Vander Veer to inspect. Questions and discussion followed regarding location of catch basins on Overlook Road and the Applicant's drainage system at the rear of the property. Attorney Kates asked for evidence the system functions properly and Mr. Doolittle cited lack of standing water or water seeping through the wall. As the prior day's rain was light it was offered a better observation would be after a heavy down pour.

Mr. Doolittle explained they cannot use pervious pavers which would allow too much percolation that close to the front septic system. Mr. Vander Veer agreed stormwater could leach into the septic or the reverse. He suggested converting the inlet at the base of the driveway into a seepage pit to collect more stormwater before it travels all the way to the rear.

Given their limitations regarding drainage and the septic field, Mr. Doolittle stated they've decided to remove the composite deck and narrow the driveway from 14 feet down to 13 feet. This reduces improved lot coverage by 1.7% to 22.66% or 1.36% more than currently exists. There are no doors direct to the deck; they're further to the right. Mr. Kupferschmid questioned the need for a strip of driveway near the garages and steps and reviewed alternatives with Mr. Doolittle. The result would shave off another 48 s.f. or 0.19% further reducing coverage to 22.47%.

The Board and Attorney Capizzi discussed provisions for the next hearing:

- 1) Submission of revised plans.
- 2) Planner testimony regarding (c-2) criteria.
- 3) Board members invited to visit the site and drive on the driveway.
- 4) Mr. Doolittle and Mr. Vander Veer visit the site together to review drainage.

This matter will be carried to the next meeting, May 18, 2017, without need for further public notice. Attorney Capizzi advised he may have a conflict but will advise in a timely fashion.

COMMUNICATIONS - Mayor Tomasko reported the quarterly newsletter went out and preparations are underway for Memorial Day. He advised the Planning Board is aware of some of the matters discussed tonight and he will inform this Board of some of that dialogue at the appropriate time.

ADJOURNMENT at 9:08 p.m. upon motion by Mr. Barbieri seconded by Mr. Cohen and approved by all.

Respectfully submitted,

Nancy Wehmann, Secretary