

ALPINE ZONING BOARD OF ADJUSTMENT

Reorganization & Regular Meeting

Thursday, January 21, 2021 - 7:30 P.M.

(This meeting was held telephonically due to COVID-19 and taped in its entirety).

CALL TO ORDER/PLEDGE OF ALLEGIANCE/PUBLIC ANNOUNCEMENT

This re-organization and regular meeting of the Alpine Zoning Board of Adjustment was called to order by Chairman Glazer at 7:30 p.m., Thursday, January 21, 2020 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 and the Governor's Emergency Declaration Adequate and electronic notice of this Regular and Reorganization meeting of the Alpine Zoning Board of Adjustment held on Thursday, January 21, 2021 at 7:30 PM along with instructions to the public on how to access this meeting which is being held using the AT&T Teleconference platform due to the COVID-19 pandemic has met the requirements of the law by means of the date and time being e-mailed to The Record and The Suburbanite on January 6, 2021 and published in The Record on January 11, 2021 as part of the Annual Notice along with the agenda posted on the bulletin board of the lobby in the Borough Hall and on the door of the main public entrances and on the Borough website along with applications, if any, for matters to be heard this evening and a copy filed in the office of the Borough Clerk and Board Secretary. Instructions for how the public can access the meeting and documents has been included in the posted agenda. A notice has also been placed on the front page of the Borough website directing the public to the Municipal Clerk page for access to all public meeting agendas and instructions on how the public can participate.

OATHS Attorney Kates administered oaths of office as follows:

Richard Glazer, Steve Cohen and George Abad: Members for four-year terms expiring 12/31/2023 and to **Elizabeth Herries:** Alternate Member I for a two-year term expiring 12/31/2022

ROLL CALL

Richard Glazer	Present	Tony Clores	Present
David Kupferschmid	Present	Richard Bonhomme	Absent
Steve Cohen	Present	Anthony Barbieri	Present
George Abad, Jr,	Present	Elizabeth Herries, Alt I	Present

Staff Present: Attorney Michael Kates, Borough Engineer, Perry Frenzel, Board Secretary Nancy Wehmann

APPOINTMENTS The following positions appointed by unanimous affirmation:

Chairman: Richard Glazer upon a motion by Mr. Barbieri, seconded by Mr. Cohen

Vote: Ayes: Mr. Clores, Mr. Kupferschmid, Mr. Cohen, Mr. Barbieri, Mr. Abad, Ms. Herries, Mr. Glazer **MOTION APPROVED**

Vice Chair: Anthony Clores upon a motion by Mr. Glazer, seconded by Mr. Cohen

Vote: Ayes: Mr. Clores, Mr. Kupferschmid, Mr. Cohen, Mr. Barbieri, Mr. Abad, Ms. Herries, Mr. Glazer **MOTION APPROVED**

Secretary: Nancy Wehmann upon a motion by Mr. Glazer, seconded by Mr. Clores

Vote: Ayes: Mr. Clores, Mr. Kupferschmid, Mr. Cohen, Mr. Barbieri, Mr. Abad, Ms. Herries, Mr. Glazer **MOTION APPROVED**

Board Attorney: Upon a motion by Mr. Glazer, seconded by Mr. Clores the 2021 reorganization meeting of the Zoning Board of Adjustment of the Borough of Alpine

WHEREAS, the Zoning Board of Adjustment has a need to acquire the professional services of **Michael Kates of the 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.f4 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 2019 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. Clores, Mr. Kupferschmid, Mr. Cohen, Mr. Barbieri, Mr. Abad, Ms. Herries, Mr. Glazer **MOTION APPROVED**

COMMUNICATIONS

Letter 1/11/2021 from Matthew Capizzi, Esq. re: McCaffrey Block 42 Lot 4 1010 Closter Dock Road withdrawing application without prejudice. Mr. Glazer read the letter into the record. It was clarified that application was not required by municipality due to a current zoning violation. Escrow to be returned after review that all bills paid. The Borough Attorney as an interested party was copied on the withdrawal notice.

Mr. Abad asked if there is a limit to the amount of time an applicant can carry a matter or must the Board continue to accommodate such applications month to month. Attorney Kates advised there is no statutory prohibition or for an applicant to start over. Res judicata provides the Board does not have to revisit the same application if is not substantially different but the Board is statutorily required to act within a certain timeframe or an application is automatically approved. That is why we insist on a formal request for continuance or withdrawal. There is no detriment to the Board to grant a withdrawal without prejudice.

MEMORIALIZATIONS

Haring Block 40 Lot 7 – 45 Alpine Drive

Attorney Kates reviewed the resolution with the Board.

Resolution: Upon a motion by Mr. Mr. Glazer, seconded by Ms. Herries to approve the resolution for Thomas Haring and Christine Haring granting variance relief for building coverage and improved coverage for renovation of an existing single-family home. This approval is subject to conditions as outlined in the resolution for this property located at 45 Alpine Drive designated as Block 40 Lot 7 on the Tax Assessment Map of Alpine, New Jersey, Bergen County. A copy of this resolution is on file at the Borough of Alpine, 100 Church Street, Alpine, NJ for review.

Vote: Ayes: Mr. Kupferschmid, Ms. Herries, Mr. Glazer **MOTION APPROVED**

PROCEDURAL MOTIONS

Resolution: Approval of Minutes: Regular Meeting December 17, 2020 upon a motion by Mr. Clores, seconded by Ms. Herries, and approved by all those eligible to vote.

Resolution: Approval of Bills and Claims Upon a motion by Mr. Clores, seconded by Mr. Cohen at the regular meeting of the Alpine Zoning Board of Adjustment held on January 21, 2021 to approve the following Bills and Claims:

Azzolina & Feury Eng., Inc.	Haring 40/7	Inv. 74137	\$ 484.50
Kates, Nussman et al	Haring 40/7	Inv. 27714	\$2,180.00

Vote: Ayes: Mr. Clores, Mr. Kupferschmid, Mr. Cohen, Mr. Barbieri, Mr. Abad, Ms. Herries, Mr. Glazer **MOTION APPROVED**

HEARINGS - None

OTHER BUSINESS

NJDEP Mandatory Online Training “Asking the Right Questions – Stormwater Review” Members need to take at least one additional course listed on the NJDEP website during each term of office (or within a four-year period). Mr. Abad completed. Mr. Glazer advised he could not access the DEP’s online course via Apple device. The State has been contacted and is reviewing.

Mayor Tomasko was recognized and thanked the Board and professionals for their service.

2021 Annual Report Attorney Kates invited discussion and explained this is the one function of the Zoning Board that is legislative rather than quasi-judicial. Municipal Land Use Law, deferring to their experience, expects the Board to report to the Planning Board and the Governing Body if they think relief being granted is so customary and non-exceptional that the ordinance should be reviewed, they identify deficiencies in the application or if definitions are needed or require clarification to make the Board’s work easier and the public better aware of objectives. There were four resolutions in 2020 and they can reference issues noted from the Haring Matter memorialized this evening.

- The Haring matter brought to light the challenge of reviewing plans not completed by a licensed professional.
- Ms. Herries noted the challenge they encountered reviewing a split-level design.
- Mr. Clores asked for review of definitions regarding height and story above grade. Attorney Kates noted this also speaks to homes built on a prominence where the home is not situated at the curb level. Mr. Frenzel agreed there is an inconsistency in the ordinance. To measure building height, you have to choose between the original or finished grade; whichever is lower. This is fine and the most conservative way to do it. However, to measure Story-Above-Grade you only use finished grade. In the Haring matter if that were not the case and you had to choose the lower, which in this case was the original grade, they would probably have had to make the addition one story lower. Attorney Kates note some towns measure from the curb or from the crown of the street or relate height to appropriate setbacks for privacy. Mr. Frenzel noted measurement from the road crown or curb would not be practical in Alpine due to the slopes.
- Mr. Abad suggested Planning Board review this particular neighborhood relative to height and privacy as the same issues could arise on other lots.
- Mr. Kupferschmid (who also serves on the Planning Board) questioned the perspectives of building heights on slopes and especially in neighborhoods with smaller lots.

Attorney Kates noted they only need to highlight the problem they’ve encountered and not necessarily provide a solution. The Board should advise Attorney Kates of any additional thoughts and he will research and provide a draft narrative for the next meeting.

ADJOURNMENT at 8:28 p.m. upon motion by Mr. Barbieri, seconded by Mr. Cohen and approved by all.

Respectfully submitted,
Nancy Wehmann, Secretary