

**ALPINE ZONING BOARD OF ADJUSTMENT**

Regular Meeting

Thursday, May 16, 2019 - 7:30 P.M.

(This meeting was taped in its entirety).

**CALL TO ORDER/PLEDGE OF ALLEGIANCE/PUBLIC ANNOUNCEMENT**

This meeting of the Alpine Zoning Board of Adjustment was called to order by Chairman Glazer at 7:30 p.m., Thursday, May 16, 2019 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, May 16, 2019 has met the requirements of the law by being published in The Record on January 4, 2019 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:**

Present: Tony Clores, David Kupferschmid, Richard Glazer, Jeffrey Mayer, Elizabeth Herries (Alt.II),

Absent: Anthony Barbieri, Steve Cohen, George Abad, Jr. (Alt I)

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

**COMMUNICATIONS:** none

**MEMORIALIZATIONS:**

**910 Closter Dock Road LLC Block 55 Lots 20&21 – 906-910 Closter Dock Road**

**Resolution:** Upon a motion by Ms. Herries, seconded by Mr. Mayer to approve the application for Applicant 910 Closter Dock Road LLC granting a soil moving permit, variance for five garage doors totaling 46.65 feet, location of generator and permission to maintain two pre-existing non-conforming structures that will not be changed or exacerbated by this application subject to conditions as outlined in the resolution for this property located at 906-910 Closter Dock Road designated as Block 55 Lots 20 & 21 [on the Tax Assessment Map of Alpine, New Jersey, Bergen County](#). A copy of this resolution is attached to these minutes and on file at the Borough of Alpine, 100 Church Street, Alpine, NJ for review.

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

**Minoyan Block 60 Lot 10 – 47 Forest Street**

**Resolution:** Upon a motion by , seconded by to approve the application for Applicant Jacques Minoyan granting variances for building coverage and improved coverage and permission to maintain certain pre-existing conditions subject to conditions as outlined in the resolution for this property located at 47 Forest Street designated as Block 60 Lot 10 [on the Tax Assessment Map of Alpine, New Jersey, Bergen County](#). A copy of this resolution is attached to these minutes and on file at the Borough of Alpine, 100 Church Street, Alpine, NJ for review.

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

**PROCEDURAL MOTIONS**

**Resolution: Approval of Minutes: Regular Meeting April 18, 2019** approved upon a motion by Ms. Herries, seconded by Mr. Mayer and approved by all those eligible to vote.

**Resolution: Approval of Bills and Claims** Upon a motion by Mr. Clores, seconded by Ms. Herries and approved by all those eligible to vote at the regular meeting of the Alpine Zoning Board of Adjustment held on Thursday, May 16, 2019 to approve the following Bills and Claims:

Kates, Nussman, Ellis et al	Minoyan 60/10	Inv. 25071	\$758.00
Kates, Nussman, Ellis et al	910 Closter Dock Road 55/20&21	Inv. 25072	\$801.00
Azzolina & Feury Eng., Inc.	Minoyan 60/10	Inv. 71635	\$140.00
Azzolina & Feury Eng., Inc.	910 Closter Dock Road 55/20&21	Inv. 71629	\$140.00

**HEARING - Garabet Block 47 Lot 1 – 987 Closter Dock Road**

Scott R. Lippert, Esq. of Pashman, Stein, Walder, Hayden, P.C., Court Plaza South, 21 Main Street, Suite 200, Hackensack, NJ 07601 appeared with and on behalf of the applicant, Leon Garabet along with Applicant's expert Douglas W. Doolittle, PE, LS, PP McNally Doolittle Engineering, LLC 169 Ramapo Valley Road, Oakland, NJ 07436. No one from the public spoke to the application.

Applicant seeks post construction relief for improved coverage already installed at 21.27% and for additional relief that would bring total proposed improved coverage to 24.2% where 20% is the maximum permitted in this zone. There was no one directly involved in the construction available to speak to the reason for the as-built overages.

Exhibits marked as follows:

- A – 1 Proof of Publication on in The Record on May 6, 2019
  - A – 2 Certified Mailing to Residents within 200' on May 3, 2019 per Tax Assessor's List dated April 25, 2019
  - A – 3 Application – signed and dated April 26, 2019 with attachments:
    - Cover letter dated April 26, 2019
    - Application Checklist
    - Proposal
    - Reason for relief
    - Tax Certification (through 2019 2<sup>nd</sup> QTR)
  - A – 4 Prior Resolution Planning Board September 27, 2016
  - A – 5 Engineering Plan entitled "Site Plan" SP-1 dated April 18, 2019 signed and sealed prepared by McNally, Doolittle Engineering LLC
  - A – 6 Set of eleven color photos undated/untitled provided by the Applicant
  - A – 7 Borough Engineer's letter dated March 26, 2019
- And marked during the course of these proceedings:*
- A – 8 Engineering Plan entitled "200 Ft. Vicinity Map: dated April 29, 2019

**Douglas W. Doolittle** was sworn and accepted as an expert in his fields. Referencing site plan **[A-5]** he recalled the 2016 Planning Board appearance for a variance-free soil moving permit with one waiver for a rockery since constructed. The new home, septic systems, driveway and drainage improvements are constructed and landscaping begun. The property is 53,641 square feet (sf) or 5½ times larger than the 10,000sf lot size required in this R2B Zone. The lot is located on the north side of Closter Dock Road between Old Dock Road and Main Street with the church to the east and a smaller home to the west. Surrounding lots are substantially smaller.

The property is unique having two access points: a Closter Dock Road driveway leads to a round or "bubble" in front of the house and then wraps around the west to side-loading garages continuing to a side rear ingress/egress to East Main Street, a paper street, which connects to Main Street. The intent is safer traffic flow so vehicles don't have to use or exit onto the heavily trafficked Closter Dock Road. This made for a longer driveway.

The original plan provided for, but did not exceed, maximum permitted improved lot coverage but the final As-Built submitted for a temporary certificate of occupancy revealed overages in multiple areas totaling 1.27% or 682 square feet. In addition to seeking relief for that overage they now request additional relief for a circular fire pit in the rear with walkways leading to both the rear patio and side garages as well as walls, piers and gates along the Closter Dock Road frontage and piers and gates at the side entrance to East Main Street. The walls will be aesthetically pleasing and consistent with streetscapes along Closter Dock Road. The gates will provide safety for the owners and prevent motorists knowledgeable of the connection from using the drive as a cut through to East Main Street to avoid traffic jams on Closter Dock Road.

The proposed provides substantial lawn and landscaped greenspace. Mr. Doolittle described as-built coverages that were slightly over: Covered porch and terrace (+6 sf), patio (+ 23 sf), driveway (+146 sf), Walls (+147 sf), front walk (+190 sf), AC/generator pad as installed on one large pad rather than smaller individual pads(+104 sf), piers (-18 sf) and stairwell/window well as constructed after the original approvals (+85 sf).

Chairman Glazer opened to the public for questions and being none opened to the Board.

Asked how the constructed overages occurred Mr. Doolittle did not know as they were not involved during construction. He deferred to the owner, **Leon Garabet, formerly 938 Closter Dock Road**, who was sworn to add testimony. A lengthy discussion ensued focusing on the multiple overages.

Driveway: Width is 12 feet; a safe minimum. Front round or "bubble" has a 40 feet diameter reduced from original 45 feet. Its purpose is to provide a safe bypass area. It may appear oversized but is in keeping with homes of this caliber and landscaping will soften the appearance. Ms. Herries recalled a lengthy discussion at the Planning Board meeting; why did the driveway increase? Mr. Doolittle did not know; they weren't involved during construction.

AC/generator pad: Originally shown on smaller individual pads, Mr. Garabet stated availability of electrical connections led them to opt for one large pad enclosure for the generator and A/C units on the west side of the house and one large pad for two additional A/C's on the east side. It was not clear if this was a building code requirement.

Stairwell/window well: Mr. Garabet thought this was on the original plan but the engineer's earlier plan didn't show it. Mr. Frenzel opined the window well might be a UCC requirement. Mr. Garabet questioned how would he get to the basement without it?

Front walk: This was not part of the original plan. The front driveway bubble was made smaller and moved away from the front steps necessitating the walk between the two structures.

Walls: The retaining walls were part of the original plan but were increased in size relative to the topography and designed to create level areas for the driveway and the backyard.

Covered porch & terrace: 6sf over is really *de minimus*.

Additional Requested Coverage: The difference between the 24.2% proposed and the existing 21.27% is about 3% or 1,585sf and comprised of walls, gates and piers along Closter Dock Road plus piers and gates at the East Main Street entrance along with two walkways from the garage area and rear patio extending to a 900sf circular fire pit area in the rear.

Chairman Glazer noted the Board is historically stringent about coverage variances. Applicant is a resident and his workers should be familiar with the ordinances. How does the front circle or proposed fire pit enhance Alpine's zoning? What proofs are offered? Mr. Kupferschmid asked why approved plans weren't followed? If changes were mandated by building codes someone should have been on top of that and made corresponding adjustments or return to the Board before proceeding with construction. Ms. Herries noted this is especially true knowing they were already at or near the permitted maximum coverage. It's one thing to ask the Board for relief from errors and another to request even more. They want to go from 20% to 24% which is 20% more than what is allowed. That's a large increase. Attorney Lippert understood the Board's feelings but offered each application must be reviewed on its own merits and Municipal Land Use Law (MLUL) criteria. He conceded mistakes were made. They should have been on top of it. He proffered this is an unusual situation with a very large lot

in relation to the surrounding area. It has two points of ingress/egress that no nearby property has. The driveway required some additional coverage. They are asking for more but the result will be a very attractive home on a very large lot. The proposed fire pit and walkways are in the rear of the property and will be screened by substantial landscaping. There is a basis for the variance and he will relate (C)1 and C(2) criteria in his summation.

A lengthy discussion ensued whether alternative materials such as porous pavers would help. It was clarified the ordinance refers to "improved" vs. "impervious" coverage. The Board has concerns with the cumulative effect of so many overages and their request for more.

The Board granted Mr. Lippert's request for a five-minute recess to confer with his client. (8:09PM)

Upon return, Chairman Glazer noted it seems the Applicant can't answer how errors occurred. Attorney Lippert said the best explanation they have is with a project this size contractors aren't always as careful as you'd like them to be. Mr. Kupferschmid emphasized this problem occurs when you design to the maximum and leave no room for error. The applicant may desire a second large patio with firepit and walkways but they're already over. Mr. Lippert reiterated it's a large lot. Mr. Kupferschmid countered that argument works against them creating less understanding as to why they needed to go over what was allowed.

Attorney Kates offered the issue of lot coverage focuses on 1) aesthetics of neighbors seeing more concrete than grass and 2) stormwater management. No landscaping plan is provided. What will neighbors see? Does the drainage plan compensate for the excess coverage? Questions are not to be construed as an excuse but to focus on the necessary proofs for the existing overages which they have not yet heard.

Mr. Doolittle replied stormwater management can be worked out with the Borough Engineer. Existing drainage improvements are sufficient for 21.27% and at or close to compliance for 24.42%. They can provide drainage calculations and another seepage pit if required as well as rear drains connecting to the front drainage system of 9 seepage pits and a strip drain. The drainage is a benefit because there was no stormwater management on this lot before.

Attorney Lippert put forth the longer driveway with two ingress/egress points for safety satisfies purposes of zoning under [MLUL N.J.S.A. 40:55 D-2] (a.) to promote the general health, safety and welfare and (b.) to secure safety from fire, flood, panic and other natural and man-made disasters. The proposed also satisfies (i.) to create a desirable visual environment. They don't feel any neighbors will object to the aesthetics. Although 21 or 24% sounds like a lot someone looking at it from the street isn't going to notice the difference.

Mr. Lippert was again granted a brief pause to confer with his client and expert.

Mr. Doolittle offered narrowing walkways and reducing the firepit by 600sf to under 23%. Mr. Kupferschmid recommended permitting the aesthetic wall along Closter Dock Road. Alternative designs and materials were again discussed. Mr. Frenzel questioned neighbors' views of the firepit area. Mr. Doolittle provided a 200' Vicinity Map **[A-8]** to describe the surroundings properties. Mr. Garabet described existing mature trees and new plantings of 20-foot pine trees to screen views from the church and surrounding homes. He noted fencing and trees are needed to keep dogwalkers from cutting through his property from the church to East Main. Mr. Garabet offered a two-foot brick wall with decorative fence on top would be in keeping for this main street of the town.

Mr. Glazer noted finding a way to mitigate the overages is the challenge. Ms. Herries proposed separating the issues of existing overage and proposed overage. Can they mitigate any of the existing without major expense or time? Mr. Doolittle replied no, the patio is not that big nor the

driveway that wide. A question whether to create a green doughnut hole in the front circle was dismissed as it would be *de minimus* and possibly pose a challenge to safe navigation.

Mr. Lippert suggesting eliminating one of the firepit walkways. Mr. Doolittle offered the odd shape of the property, location of wetlands, location on a busy County road, and a lot 5 times the size of surrounding lots kind of puts this lot in its own unique zone and approval would not set a precedent. Mr. Glazer noted that is not their concern as they view every application individually. They are concerned with protecting the character and zoning ordinances.

Mr. Mayer agreed with separating as-built and proposed coverage. Mr. Lippert offered to eliminate the request for the rear walkways and fire pit. Noting Closter Dock Road is a busy highway, Mr. Clores recommended extending the distance from the road to the gate to allow for two cars to wait for the gate to open. That would reduce the likelihood of vehicles extending out into Closter Dock Road. Mr. Doolittle stated they could move the gates back another ten feet. Mr. Garabet did not see this need; it is just him and his wife. Visitors can go around to the side entrance. Ms. Herries questioned why no thought was given to including these features in the original plan. The response was that they were human and fallible. Mr. Glazer countered 10-20sf may be excused as a mistake or fallible but not 1.25% of 54,000sf. However, the Board was sensitive to the time and cost that would be involved in removing the existing coverages noting it appeared there would be no undue harm to anybody by allowing it to remain. At the same time, the carelessness that resulted in these errors is offensive and the builder did not attend.

**Resolution Existing Improved Coverage Only:** Upon a motion by Jeffrey Mayer, seconded by Ms. Herries to allow the as-built post construction improved coverage to remain at 21.27%.

**Vote: Ayes:** Mr. Clores, Mr. Mayer, Mr. Kupferschmid  
**Nays:** Ms. Herries, Mr. Glazer

**MOTION APPROVED**

It was summarized additional relief requested is now limited to the walls, pier and gates in the front along Closter Dock Road and two piers and gates at the side entrance on East Main Street. The final calculation would add about 0.5% more for total improved coverage of about 21.8%.

**Resolution Requested Additional Improved Coverage:** Upon a motion by Mr. Kupferschmid to approve roughly 0.5% of additional improved coverage for walls, pier and gates in the front along Closter Dock Road and two piers and gates at the side entrance on East Main Street. This motion was seconded by Ms. Herries for purposes of discussion.

**Discussion:** Ms. Herries questioned an alternate to walls such as a fence with trees behind it. Mr. Garabet stated he already plans to plant a lot of trees – it will look like a plantation. If they ask him to plant 3 trees, he plants 35 trees. He loves trees. Mr. Glazer noted that is good because Alpine is a Tree City. Ms. Herries was just surprised they didn't include walls in the original plans.

**Vote: Ayes:** Mr. Kupferschmid  
**Nays:** Mr. Clores, Mr. Mayer, Ms. Herries, Mr. Glazer

**MOTION DENIED**

Mr. Lippert thanked the Board for their time and effort on this application.

**OTHER BUSINESS** Mayor Tomasko formally invited everyone to participate in the Memorial Day ceremonies, Monday, May 27 and updated the Board on the road improvement program.

**ADJOURNMENT** at 9:16 p.m. upon motion by Mr. Clores, seconded by Ms. Herries and approved by all.

Respectfully submitted,  
Nancy Wehmann, Secretary