

**ALPINE ZONING BOARD OF ADJUSTMENT**

Regular Meeting

Thursday, February 19, 2015 - 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 Acting Chair Ronan at 7:30 p.m., Thursday, February 19, 2015 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, February 19, 2015 has met the requirements of the law by being published in The Record as part of the Annual Notice on January 7, 2015, posted on the bulletin board in the lobby of the Borough Hall and a copy filed in the office of the Borough Clerk.*

**OATHS** Mayor Tomasko administered oaths of office to **David Kupferschmid** as Member for a four term expiring 12/31/2018 and **Jeffrey Mayer** as Alternate Member #2 for the unexpired portion of a two year term expiring 12/31/2015.

**ROLL CALL**

Richard Glazer	<i>Absent</i>	Bob Burns	<i>Present</i>
Tony Clores	<i>Absent</i>	David Kupferschmid	<i>Present</i>
Anne Ronan	<i>Present</i>	Richard Bonhomme	<i>Present</i>
Steve Cohen	<i>Present</i>	Anthony Barbieri, Alt I	<i>Absent</i>
Jeffrey Mayer	<i>Present</i>		

Ralph Mattes, Planning Board member present for the Zoellner application in lieu of Anthony Barbieri who lives within 200 feet of the subject property.

**Staff Present on Dais:** Attorney Kathryn Walsh on behalf of Board Attorney Michael Kates, Borough Engineer Gary Vander Veer, Board Secretary Nancy Wehmann

**NEW/CONTINUED HEARINGS**

**Conway Block 70 Lot 3 – 11 Litchfield Way**

Ms. Ronan announced that the above matter has been carried to the following meeting scheduled for March 19, 2015 at 7:30 PM at the request of the applicant. As notice was made for this meeting and the continuance announced tonight, and posted on the Bulletin Board of the lobby of the Borough Hall, no further public notice will be required of the applicant.

**Zoellner Block 55 Lot 4.01 – 83 Church Street**

Marc A. Raso, Esq. having offices at 550 Kinderkamack Road, Suite 138, Oradell NJ 07649 appeared on behalf of the Applicants, the Zoellner family along with three witnesses: Robert Cullen, 83 Church Street, Alpine, NJ 07620, representing the family; Peter Dito, RA FDS Architects 82 North Summit Street, Tenafly, NJ 07670 and Douglas Doolittle, PE, PP with McNally Engineering, LLC 169 Ramapo Valley Road, Oakland, NJ 07436.

Mr. Raso provided originals of the Proof of Publication **[A-1]** and Certified Mailing **[A-2]** copies of which were provided prior to the meeting thus the Board has jurisdiction to hear this matter. The Exhibit List was marked by reference and accepted by Mr. Raso.

- A – 1 Proof of Publication on in the Record January 3, 2015
- A – 2 Certified Mailing to Residents within 200' on December 31, 2014 per Tax Assessor's List dated October 2, 2014
- A – 3 Application Form signed and dated November 3, 2014 including:
  - Cover letter from Robert T. Tessaro dated November 5, 2014 with enclosures:
  - Proposal and reasons for relief
  - Tax Collector's proof of taxes paid through fourth quarter 2014 dated November 5, 2014
  - Tax Assessor's 200 foot property owners list dated October 2, 2014
  - Amendment submitted December 15 adding additional prior resolutions to Section 3
- A – 4 Zoning Officers Letter dated September 25, 2014
- A – 5 Prior Planning Board resolution dated March 27, 2012 Minor Subdivision
- A – 6 Prior Planning Board resolution dated October 24, 2000 Minor Subdivision
- A – 7 Prior Planning Board resolution dated October 24, 2000 Soil Moving
- A – 8 Prior Zoning Board resolution dated ~~December 1, 1988~~ November 1, 1988<sup>1</sup>  
Additional residential Structure
- A – 9 Prior Zoning Board resolution dated December 1, 1987 Recreational Facility: Field house
- A – 10 Set of Four Color Photographs dated November 1, 2014 provided by McNally Engineering, LLC
- A – 11 Soil Moving Permit Application signed and dated October 16, 2014 – 7,955.53 cubic yards
- A – 12 Storm Drainage Report dated 9/12/2014 prepared by Matthew Greco, PE of McNally Engineering, LLC
- A – 13 Set of Plans prepared by Matthew Greco, PE of McNally Engineering, LLC signed and sealed consisting of 2 pages:
  - SP-1 entitled "Site Plan" dated August 7, 2014 last revised #3 November 24, 2014 annotated "*Revised per AF Review Letter dated 11/11/2014*"
  - SL-2 entitled "Steep Slope Analysis" dated November 24, 2014
  - VM-2 entitled "200' Vicinity Map" dated October 27, 2014
- A – 14 Set of Architectural Plans by Thomas D. Swift, RA of FDS Architects Northern Valley Design Center dated September 5, 2013 last revised October 7, 2014 consisting of 6 pages:
  - T Title, Notes, Drawing List, Zoning, General Conditions, Front Elevation
  - A1 Foundation / Basement Plan, Notes
  - A2 First Floor Plans, Window Schedule, Notes
  - A3 Second Floor Plans, Roof Plans, Window Schedule, Notes
  - A4 Right and Rear Elevations
  - A5 Left Elevation, Section, Wall Section, Details
- A – 15 Borough Engineer's letter dated September 24, 2014

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<sup>1</sup> Error noted after meeting. Testimony references resolution by correct date.

A – 16 Borough Engineer's letter dated November 11, 2014  
A – 17 Borough Engineer's letter dated December 18, 2014  
A – 18 Letter from Marc A. Raso, Esq. dated December 29, 2014 re: Change of Attorney  
A – 19 E-mail from Marc A. Raso, Esq. dated January 14, 2015 confirming matter be carried to February 19, 2015  
*And added during the course of these proceedings:*  
A – 20 Colored rendering of A – 14 "T"

**Robert Cullen** was sworn by Attorney Walsh. Mr. Cullen testified that he works for Hillcorp Corporation, a NJ Corporation, owned by the Zoellner family who formed the company about thirty years ago specifically to manage the property that is the subject of this application. Mr. Cullen has worked there since inception and is Project Manager. Hillcorp is also a NJ Licensed Homebuilder. They are presenting an application to build another single family residence at 83 Church Street, Block 55 Lot 4.01. If approved Hillcorp would construct the house which would be occupied by a very close Zoellner family friend. There are currently four single family residences on the property.

Open to the public and the Board for questions. There were none.

**Peter Dito** was sworn by Attorney Walsh. Mr. Dito provided his qualifications<sup>2</sup> and was accepted by the Board as an expert in architecture. Mr. Dito's firm was engaged to design a single family residence. Architectural plans were marked **[A-14]** and a colored rendering of the title page from that set displayed and marked **[A-20]**. As part of his preparation Mr. Dito reviewed Alpine's Zoning Ordinance and Master Plan and physically inspected the property, most recently yesterday. They propose a single family residence, plus or minus 5,000 square feet of livable space, in classic American country architecture. The roof is somewhat like a Cape Cod where the second floor is disguised underneath the roof and a classic front porch. The home is designed to look smaller than it really is.

**Amendment to Comply With Height and Number of Stories.** They agree that the plans as currently proposed depicts three stories as noted in the Borough Engineer's letter dated December 18, 2014 **[A-17]** (pg. 2 Item 4) where in the R-1 zone they are limited to two and a half stories. They have conferred with the Applicant's representative, Mr. Cullen, and now propose to amend the drawings to comply with the ordinance as a two and a half story structure. They further propose to eliminate the need for a height variance by lowering the height as shown from 35.49 feet where 35 feet is the maximum limit for a single family home. This eliminates two variances.

Ms. Ronan questioned whether the Board should proceed without revised plans in front of them noting that bringing down the height and number of stories sounds like it would require some substantial architectural and engineering changes. Attorney Walsh advised they can proceed with hearing and disposition subject to submission and approval of revised plans. Mr. Vander Veer noted he reviews site plans and the Building

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<sup>2</sup> Graduated 1992 Pratt Institute New York; Started at FDS Architects in 1982 going from print boy to partner in 1992. Projects he has worked on range and include high end residential, medical office, car dealerships and he has qualified to testify before other Land Use Boards including Alpine last year.

Department would typically review the architectural drawings. Attorney Raso stipulated any approval would be subject to review and approval of revised plans by the appropriate officials.

There were no questions from the public or the Board.

**Douglas Doolittle, P.E., P.P.** was sworn by Attorney Walsh and noting numerous prior appearances before the Board deemed qualified to provide expert testimony in the fields of professional engineering and planning. Mr. Doolittle's firm, McNally Engineering LLC was retained to prepare a site plan for a single family residence. He has physically inspected the property most recently last October when the septic systems were installed.

Mr. Doolittle described the subject property as a substantially large lot being forty-eight to forty-nine acres with four existing single family homes currently on it along with amenities including a tennis court and other accessory structures. The property has an internal driveway system to all the structures on the property. Mr. Doolittle referred to the engineering plans marked **[A-13]** during his testimony.

**Elimination of Variance for Three Stories.** Attorney Raso asked Mr. Doolittle to describe in detail the changes to be made to comply with the ordinance in regard to stories. Mr. Doolittle stated the Site Plan **[A-13]** currently identifies a two story building from the foundation to the ridge not including the basement. They agree with Mr. Vander Veer's reports **[A16][A-17]** that only about forty per cent of the basement relative to the first floor is below the finished grade as defined in the ordinance<sup>3</sup> therefore it would be considered a third story. To bring this into compliance they propose to work exteriorly and change the grade around the rear and side of the property bringing the calculation to just above fifty per cent; essentially "burying the basement". Chairman Ronan questioned if that was an acceptable approach. Mr. Vander Veer advised they can do that to comply with the ordinance as to stories. The additional fill may impact the soil moving calculations but not substantially as they are already moving a significant amount of soil.

**Elimination of Variance for Height.** It was noted the story issue is a separate issue from height which is calculated from the average natural grade, a figure that cannot be changed. Attorney Raso noted they are adding another principal structure, not an accessory building, thus they are stipulating to comply with the 35 foot height requirement for a single family home.

Mr. Doolittle reviewed colored photographs **[A-10]** of the site taken last fall when the septic systems were constructed depicting views north and east of the septic fields. In conjunction with the 200 foot vicinity map and the key map on the site plan **[both part of A-13]** he pointed out that the proposed location, which comprises about 1 to 1½

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<sup>3</sup> **STORY ABOVE GRADE**

Any story having its finished floor surface entirely above grade, except that a basement shall be considered as a story above grade where the finished surface of the floor above the basement is more than six feet above the finished ground level for more than 50% of the total building perimeter. [Added 6-24-2009 by Ord. No. 703]

acres, will not be seen by neighboring properties and is in the middle of a lot that is 2,110,238 square feet or about 48.5 acres; the 200 foot perimeter barely leaves the property on the west side. On a very large lot of this size the impact to neighbors is not a concerning issue. In these photos as far as the eye can see you only see the subject property. Ms. Ronan questioned views to the south and west. Mr. Doolittle replied they do not have photos of those views but the distance to the south is even further. He described the connections to the internal driveway system being a circular driveway and another driveway to a side loading garage as shown on the 200 foot vicinity map [A-13].

**Variance for Multiple Residences on a Single lot.** Speaking now as a professional planner, Mr. Doolittle affirmed this is a use variance.

To satisfy the positive criteria required to grant such a variance they must show special reasons where it can be demonstrated that the use will advance a purpose of zoning as enumerated in the Municipal Land Use Law, more specifically NJSA 40:55(d)(2)(a) "to encourage municipal action to guide the appropriate use or development of all lands in the State in a manner which will promote the public, health, safety, morals and general welfare." General welfare is promoted by this use which is particularly suited to this piece of property because they are dealing with a very large lot size being 2,110,238 sq. ft. where the minimum required lot size is 40,000 sq. ft.

To satisfy the negative criteria they have to demonstrate the use variance shall not be substantially detrimental to the public good and shall not substantially impair the intent of the Zoning Plan and Zoning Ordinance. Mr. Doolittle affirmed this would not be detrimental because they already have four single homes on the property which is more than capable of sustaining those residences along with the one proposed. The zoning history of this particular property reveals similar relief has been granted in the past and reference was made to a prior Zoning Board resolution dated November 1, 1988 [A-8] approving the addition of an additional residential structure. Furthermore, the property is so unique due to its large size that it would not impair the intent of the Zoning Plan or Zoning Ordinance.

**Variance for Steep Slope Disturbance** Mr. Doolittle reviewed the Steep Slope Analysis [part of A-13] and relief requested to disturb slopes 15-24.9% for construction of the dwelling where, by ordinance, only grading or road construction is permitted. He again affirmed that due to the isolation of this site on the subject property they are far away and will not impact any adjoining property owners. Ms. Ronan asked how close they are to the nearest home to the west. Mr. Doolittle replied about 300 feet.

**Review of Borough Engineer's Letters.** Attorney Raso referenced Mr. Vander Veer's letter of November 11, 2014 [A-16] for Mr. Doolittle to affirm that the site plan revision prepared November 11, 2014 addressed the Borough Engineer's concerns raised in his prior letter of September 24, 2014 [A-15].

**Stormwater Management.** Mr. Vander Veer's December 18, 2014 letter [A-17] page 2 Item #6 reviews the proposed stormwater management improvements as prepared by Mr. Doolittle in his Storm Drainage Report [A-12] and finds them acceptable subject to satisfactory subsurface conditions. Mr. Doolittle affirmed his client will abide by the Borough Engineer's examination and inspection requirements.

**Soil Moving Permit Application.** Mr. Vander Veer's December 18, 2014 letter **[A-17]** page 3 Item #III reviews reported soil moving activity based on Mr. Doolittle's Soil Moving Permit Application **[A-11]** as follows:

Volume of cut	358 cubic yards
Volume of fill	7,955 Cubic yards
Volume to be imported	7,598 Cubic yards
Volume to be exported	0 Cubic yards
Total volume of soil to be moved	7,955 Cubic yards

Mr. Doolittle affirmed his client will abide by the conditions including submission of a tree removal permit for review by the Alpine Environmental Commission.

Lastly Mr. Doolittle affirmed they will comply with the List of Required Revisions / Supplements as noted in the Borough Engineer's December 18, 2014 letter. He further affirmed the Applicant will be promoting the public health, safety, morals and general welfare of the Borough.

There were no questions from the public. **Questions from the Board:**

Mr. Mattes wished to the record to reflect that both he and his wife (Environmental Commission Chair, Lorraine Mattes) visited the property yesterday guided by the Architect and the Property Manager. Any discussion was limited solely to completion of the septic system, impact to neighboring properties and stormwater runoff. He requested a review of the summary of the variances and waivers requested.

Mr. Mayer asked for a review of the site in proximity to the property lines. Mr. Doolittle used the key map on the site plan **[A-13]** to demonstrate the blackened inset representing the subject site amidst the cross-hatched lines depicting the entire lot. Distance to the nearest property is over 300 feet.

**Summary of Requested Relief:**

1. (d)1 Use Variance for an additional single family residence
2. Variance from the Steep Slope Ordinance
3. Soil Moving Permit Application

They tried to simplify the application by eliminating the height and story issues.

Mr. Kupferschmid noted clearly the size of the property can accommodate another home and his belief that several issues raised during prior applications and resolutions for this property would come into play with this application. He recalled testimony that this home would be built for a family friend and referenced the prior Zoning Board resolution dated November 1, 1988 **[A-8]** which granted approval for an additional single family home for use by the daughter and son-in-law that included a restriction:

*Page 5 Item 4. "If the structure to be erected is ever sold then a subdivision must be approved prior to said sale as approval has been premised upon representation of the applicant to keep the site intact for use by his family."*

Mr. Kupferschmid further noted the prior Zoning Board resolution dated December 1, 1987 **[A-9]** approving the addition of an accessory recreational structure wherein the Board concluded:

Page 7 Item 5. "The Board of Adjustment finds that the proposed structure is an accessory use to the private residence and therefore not an expansion of a non-conforming use, that being more than one family dwelling on a lot."

Mr. Kupferschmid also pointed out that the prior Zoning Board resolution dated November 1, 1988 **[A-8]** indicated:

Page 4 "In addition, a variance is required from N.J.S.A. 40:55D-35, since a building permit cannot be issued to a proposed structure which does not abut a municipal street."

Mr. Raso noted although issues regarding expansion of nonconforming use or road frontage were not brought to their attention by Borough officials, they did include that language in their public notices based on the prior resolutions. Mr. Kupferschmid advised he just wished to draw attention to how prior Boards viewed this issue and, without objecting to the concept, noting the house in 1988 was approved, believed that this would be considered an expansion of a non-conforming use. Mr. Raso restated that they are viewing this as a (d)1 Use Variance. It wouldn't be accessory because you wouldn't be able to have one single family house as an accessory to another single family house. They proofs would remain the same.

As to a stipulation for future subdivision, Mr. Raso conferred with his client's representative Mr. Cullen, who did not object while affirming the need for that is not being considered at this juncture. Mr. Kupferschmid advised he would feel more comfortable with such a stipulation included in any approval. Mr. Kupferschmid reiterated he is not against the concept just wonders what issues arose in the past and might arise down the road such as rental of premises. Ms. Ronan and Mr. Raso believed those would be enforcement issues rather than zoning issues.

Mr. Mattes asked Ms. Walsh to comment. Ms. Walsh advised she and Mr. Kates spoke with Mr. Raso earlier today and concurred that a (d) 1 use variance is applicable along with the steep slope variance. Prior Boards may have different interpretations so the previous history, while definitely relevant, is not necessarily indicative of what this Board will determine.

**Public Comments Paul Tomasko**, owner of 87 Church Street which abuts the subject property. As Mayor he consulted with the Board Attorney who advised that his being an elected official does not compromise his right to be heard on a matter concerning his property. While typically he would oppose a request to add another single family home to a property in Alpine, the circumstances in this situation are so extenuating that he has no objection because 1) of the very large size of the property and so far very little of it having been developed and 2) since 1987 when this family moved to Alpine they have been good neighbors not only to him when he lived in his home but have been extremely generous to our school and the town as a whole.

**Resolution:** Upon a motion by Mr. Bonhomme, seconded by Mr. Cohen to approve the application with the following special conditions:

- Submission of revised plans for review and approval by the appropriate Borough official to effect

- Compliance with height ordinance
- Compliance with the number of stories permitted by ordinance (grading to eliminate the basement from counting as a story)
- Compliance with comments in the Borough Engineer's letter of December 18, 2015
- Approvals required by the Bergen County Soil Conservation District for the area of disturbance
- If the structure to be erected is ever sold then a subdivision must be approved prior to said sale as approval has been premised upon representation that the property will remain intact.

**Vote: Ayes:** Cohen, Bonhomme, R. Mattes, Mayer, Kupferschmid, Burns, Ronan

**MOTION CARRIED**

**OTHER BUSINESS** None

**PROCEDURAL MOTIONS**

**Resolution: Approval of Bills and Claims** Upon a motion by Mr. Cohen, seconded by Ms. Ronan and approved by all those eligible to vote at the regular meeting of the Alpine Zoning Board of Adjustment held on Thursday, February 19, 2015 to approve the following Bills and Claim:

North Jersey Media Group	Notice of Attorney Appmt 5-01-21-185-022	Inv3809985	37.80
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**MOTION CARRIED**

**Resolution: Approval of Minutes: Regular Meeting February 19, 2015** Upon a motion by Mr. Bonhomme, seconded by Mr. Cohen and approved by all those eligible to vote at this regular meeting of the Alpine Zoning Board of Adjustment held on Thursday, February 19, 2015 to approve the minutes of the regular and reorganization meeting held on January 15, 2015.

**COMMUNICATIONS** Mayor Tomasko wished to thank all of the Board members for the important job they do in service to their town. The Mayor and Council is currently very involved in the budget process. He noted the departure of the Acting Municipal Clerk which office is currently being covered by Nancy Wehmann. They are also working on the quarterly newsletter.

**ADJOURNMENT** at 8:37 p.m. upon motion by Mr. Cohen, seconded by Mr. Mayer and approved by all.

Respectfully submitted,  
Nancy Wehmann, Secretary