

ALPINE ZONING BOARD OF ADJUSTMENT

Regular Meeting Thursday, October 15, 2020 - 7:30 P.M.

(This meeting was held via ZOOM Webinar call due to the SARS-CoV-2 Pandemic and recorded 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 7:34 p.m., Thursday, October 15, 2020 who read the following announcement 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 meeting of the **Alpine Zoning Board of Adjustment** held on **Thursday, October 15, 2020**, along with instructions to the public on how to access this meeting which is being held using the Zoom Webinar platform due to the COVID-19 pandemic has met the requirements of the law by means of being e-mailed to The Record and The Suburbanite on October 5, 2020, published in The Record on October 9, 2020, posted on the bulletin board of the lobby in the Borough Hall, posted on the door of the main public entrances, posted on the Borough website along with the applications for any matters being heard this evening and a copy filed in the office of the Borough Clerk. In addition, due to the current COVID-19 pandemic, notice provided instructions for review of documents by appointment with the Board secretary and that the public could e-mail questions or comments to the Board Secretary for the public record as appropriate. 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.*

ROLL CALL

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

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

HEARING: Haring Block 45 Alpine Drive Block 40 Lot 7

Matthew G. Capizzi, Esq. Capizzi Law Offices 11 Hillside Ave., Second Floor, Tenafly, NJ 07670 appeared on behalf and with Applicants Thomas and Christine Haring. Also appearing for applicant: Michael J. Hubschman, PE, PP Hubschman Engineering PA 263 A S. Washington Ave., Bergenfield, NJ 07621 and Chris Blake Architect 24 New Bridge Road, Bergen field, NJ 07621.

Also appearing: Zoning Officer Alden Blackwell with Attorney Dermot J. Doyle of Huntington Bailey Attorneys for the Borough of Alpine, and

Matthew J. Ross, Esq. Mueller Law Group 19 Engle Street Tenafly, New Jersey 07670 on behalf of Ralph Ted Noback, a neighbor within 200 feet.

Seven or eight members of the public logged in during the zoom call and instructed on how to participate. No one spoke as the hearing was carried prior to public question or comment portions.

Exhibits marked as follows:

- A- 1 Proof of Publication in The Record October 4, 2020
- A - 2 Certified Mailing to Residents within 200' on October 2, 2020 per Tax Assessor's List dated September 10, 2020
- A - 3 Notice of Appeal from Matthew G. Capizzi, Esq. dated September 1, 2020
- A - 4 Zoning Officer's Review letter dated August 19, 2020

- A – 5 Application received September 9, 2020 signed and dated September 4, 2020
 - Notice property taxes paid through October 2, 2020
 - Tax Assessor's 200' list dated September 10, 2020
- A – 6 Set of five color photographs labeled but not dated or authored
- A – 7 Prior Zoning Board of Adjustment Resolution December 21, 2017
- A – 8 Site Plan signed and sealed by Michael J. Hubschman, PE, PP consisting of one-page dates June 15, 2017 last revised August 25, 2020 annotated "show attic stairwell"
- A - 9 Set of Plans signed and sealed by Chris Blake, RA consisting of five pages dated August 13, 2020 last revised July 17, 2020 annotated "Zoning Review 6/15/20"
 - A1 Site Plan + Zoning, Basement
 - A2 First Floor Plan, Details
 - A3 Second Floor + Attic Plan
 - A4 Elevations
 - A5 General Notes
- A-10 Borough Engineer's letter dated September 30, 2020

And marked during the course of these proceedings:

- A – 11 "Elevation Comparison" prepared by Chris Blake, Ra

Attorney Capizzi reviewed: Applicants were before the Board in 2017. Property is a corner lot with a split-level single-family residence fronting on Alpine Drive and side loading garage access to Schoolhouse Lane. View from Alpine Drive reveals typical split-level orientation with living quarters on both left and right sides of the house. In 2017 they proposed placing a second story addition above the left side of the house with a roof area above. Architecturals submitted at that time were sketch drawings prepared by Mr. Haring and admittedly perhaps did not have full architectural details but the home is and will remain a three-bedroom dwelling. Construction began. Mr. Blackwell issued a Stop Work Order over concerns that work exceeded what was approved. As part of discussions to resolve the issues Mr. Blake was retained to prepare formal architectural plans to carry through what was proposed and illustrate what had been constructed to that date. Mr. Blake will provide an exhibit to illustrate the left elevation was constructed in accordance with original plans. They acknowledge new stairwell for access to attic from new second story was not clearly detailed on 2017 plan.

Attorney Capizzi identifies two issues:

1. **Stories.** Mr. Blackwell considers basement a story above grade making construction three and a half stories. The ordinance only permits two and a half stories. Their calculations per definition show a two and a half story dwelling. If Board agrees with Mr. Blackwell issue can be resolved by grading along the left side yard with nominal fill and a small retaining wall and nominal fill. Issue was not raised by Board or Building Department when original approvals obtained.
2. **Building coverage** increased by approximately 240 square feet over the 2017 approval by virtue of additional overhangs not depicted in the 2017 plans. They recognize this is a variance.

Attorney Kates asked Mr. Blackwell and Mr. Frenzel if issues were correctly framed.

Mr. Blackwell confirmed Zoning Board approved Haring pencil sketch plans in 2017. Building Department received May 2018, permits issued, and work started. Neighbors complained about the height, building subcode official inspected and determined work exceeded scope of approval. Stop Work Order issued and new plans requested and received from Mr. Blake May 2020 **[A-9]** showing an entirely different structure. The Board needs to review if they meet criteria of 2017 approval. New plans on page A2 depict basement, first floor, second floor and an attic that appears to be considerably larger than attic shown on 2017 plans. On the right side of the building plans show first-floor garage, second floor and attic. Attic was not depicted on Mr. Haring's plans. It comes down to whether the Board wants to accept the new plan and the new construction done which appears to him to violate what the Board previously approved. Issues are the number of stories and they built something different from what was approved.

Mr. Frenzel offered dispute regarding stories is over definition and calculation used to determine if basement is a story above grade. Mr. Blackwell calculated using perimeter for just that portion of the basement beneath the floor which is subject to the evaluation. A black and white reading of the definition using perimeter of the total structure would be translate to two and a half stories.

Board members expressed concern applicant exceeded scope of work and the significant addition of a landing constructed from second floor to the new attic that didn't appear in original drawings. Mr. Frenzel offered the two dormers shown at the back of the house extending from the front to the back are a separate issue. The Board questioned if floor levels or height changed? Is the additional structure, albeit unapproved, still within the acceptable building envelope? The Board needs 2017 plans for comparison.

Issues summarized as 1) building exceeded plans and permits 2) number of stories and 3) building coverage. Attorney Capizzi acknowledged applicant may be required to file more detailed plans.

Attorney Doyle questioned discrepancy with proposed height. This was 26.1 feet in the 2017 approving resolution but 34.3 feet in Mr. Blackwell's letter **[A-4]**. Exceeding the scope of building is illegal construction and an important issue in assessing credibility of testimony. This is not just a narrow issue of a couple of variances.

Chris Blake and Michael Hubschman were sworn and accepted as experts in their field.

Mr. Blake testified he was retained late spring/early summer of 2020 to prepare comparative plans **[A-9]** for this project already under construction; essentially just framed but not complete. He prepared a side by side comparison of the rear elevation from his plan **(A4) of [A-9]** to Mr. Haring's 2017 sketch to show they are similar in size and scale. This was marked **[A-11]**. The 2017 sketch shows four columns at basement level holding up first floor, second floor and attic. Roof pitch and floor heights appear similar. Window style changed but that is not a zoning concern. Mr. Blake's drawing shows the whole building, including the attic landing/stairs not depicted on the original drawing. Mr. Blake is not aware of any grading changes. The lawn looks like it's been that way forever. While the 2017 sketch lacks numbers and definition for ceiling heights to enable

a literal comparison, they do appear similar in size and scale. The attic pitch in the 2017 sketch appears slightly higher than his plan.

The Board questioned height. Attorney Capizzi stated Mr. Hubschman will testify this was an error on the original site plan. The Board and Building Department accepted the sketches for permits and the Harings should not have to pay the price for a scrivener error. Mr. Blake offered a section sketch of the 2017 plan denoted grade to peak measurement of 35+/- feet. Mr. Frenzel found both drawings scale about the same concluding the lower height listed on the site plan must have been an error.

Attorney Kates reminded the Board's jurisdiction is triggered by a variance to address a nonconformity from bulk criteria of the zoning ordinance. As the applicant is still within the (35 foot) height limit, focus should be on number of stories. Does "burying" the basement effect a cure? Mr. Frenzel repeated his explanation of the definition. Asked if the peak shown was existing or new Mr. Blake highlighted new sections (second floor and attic peak) with red marker.

Mr. Hubschman referred to his plans **[A-9]** which include the definition and calculation for stories that was not shown on his 2017 plan.

*§220-2 **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.*

He calculated first floor at 451.81 feet. Six feet below is 445.81 feet. Perimeter of total building is 196 linear feet. Perimeter above elevation 445.81 feet is 109 linear feet being 109/196 or 55.60% of total. He concluded basement is not considered a story as more than 50% is above elevation 445.81. Mr. Blackwell only included perimeter from three sides of the addition. This is not in accordance with the ordinance but to meet his definition, they can grade that side up to 445.65 which is doable. He clarified unlike the height ordinance the definition for story above grade does not differentiate between existing or proposed grades. This is a split level but you still compute using the total perimeter. He knows of nothing that has disturbed the original grades since 2017. He further affirmed his 2017 plan had a typo regarding the height but the homeowner's section plans do show 35 feet.

Mr. Blackwell confirmed he only considered the portion that had the basement and did not consider the right side (where the garage is). He considered those levels not to be a first floor as marked on Mr. Blake's plan but rather, being a split level, counted them as first floor and intervening level. The Alpine Zoning Code does not address split levels and whether that should or should not counted. He only counted the basement marked on Mr. Blake's plans. Where the ordinance is not clear he refers to the Board.

Mr. Kupferschmid asked if Mr. Blake could provide a copy of his A-4 drawing redlined to indicate what was approved in 2017 versus what exists. He felt this would be more helpful than the Board trying to compare the two sets.

Attorney Capizzi offered this case stands separate and apart from the 2017 case. The Board will decide whether the basement qualifies as a story or not based on the definition and they recognize the building coverage is a variance. They are limited where the 2017 plans did not provide a front elevation so they can't recreate that. They only have rear and left side elevations. Attorney Kates noted photos were submitted with the 2017 application. Mr. Kupferschmid asked they receive copies of the photographs and drawings provided with the 2017 application. Mr. Bonhomme requested list of 2017 attendees which Attorney Kates advised was in the resolution.

Attorney Capizzi needed to leave to attend another meeting. Attorney Kates announced this matter will be carried to the next regular meeting scheduled for November 19, 2020. Attorneys Doyle and Ross raised no objection. Members of the public informed they will be afforded an opportunity to question witnesses and comment at the next hearing scheduled for November, 19, 2020.

CARRIED

PROCEDURAL MOTIONS

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

Resolution: Approval of Bills and Claims Upon a motion by Mr. Barbieri, seconded by Mr. Bonhomme to approve the following Bills and Claims:

NJ Media Group	Leoce 70/14	Inv. 4383358	\$15.68
NJ Media Group	Meeting Notice Zoom 10-15-2020	Inv. 4408938	\$30.40
Azzolina & Feury	Haring 40/7	Inv. 73757	\$1,168.00

Vote: Ayes: Mr. Barbieri, Mr. Bonhomme, Mr. Clores, Mr. Cohen, Mr. Kupferschmid, Mr. Mayer, Mr. Glazer

COMMUNICATIONS:

Letter from Attorney Capizzi dated September 28, 2020 extending and carrying McCaffrey Block 42 Lot 4 – 1010 Closter Dock Road to November 19, 2020. Applicant must re-notice.

The meeting was opened to the public. No one spoke.

Thanks to Attorneys Kates and Earle for hosting this meeting on ZOOM webinar platform.

ADJOURNMENT at 8:44 p.m. upon motion by Mr. Barbieri, seconded by Mr. Bonhomme, and approved by all.

Respectfully submitted,

Nancy Wehmann, Secretary