

ALPINE ZONING BOARD OF ADJUSTMENT

Regular Meeting

Thursday, August 20, 2020 - 7:30 P.M.

(This meeting was held via electronic meeting Zoom call due to the SARS-CoV-2 Pandemic Audio 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 7:33 p.m., Thursday, August 20, 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 the notice of this regular meeting of the Alpine Zoning Board of Adjustment held Thursday, August 20, 2020 has met the requirements of the law by being published in The Record, posted on the bulletin board of the lobby of the Borough Hall and a copy filed in the office of the Borough Clerk. In addition, due to the current COVID-19 Pandemic instructions to the public on how to access this meeting have been posted in the Borough website as part of the posted Notice of Meeting.

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	Absent		

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

COMMUNICATIONS:

1. Azzolina & Feury Letter 4/6/2020 re: Lin Block 40 Lot 5 – 34 DuBois Ave Mr. Frenzel received the as-built and they are in compliance.
2. Azzolina & Feury letters 7/14/2020, 8/3/2020 re: Garcia Pool/Landscape Plan Mr. Frenzel explained submissions comply with the Board's resolution. The project is currently on hold after a water main, that did not appear on any plans, was detected under the proposed pool location during utility mark outs. The applicant is working with the neighbor and water company to resolve.

PROCEDURAL MOTIONS

Resolution: Approval of Minutes: Regular Meeting April 16, 2020 upon a motion by Mr. Clores seconded by Mr. Cohen and approved by all those eligible to vote.

Resolution: Approval of Bills and Claims Upon a motion by Mr. Clores, seconded by Mr. Barbieri and approved by all those eligible to vote at the regular meeting of the Alpine Zoning Board of Adjustment held on August February 20, 2020 to approve the following Bills and Claims:

Azzolina & Feury	Leoce 70/14	Inv. 73293	\$313.50
Azzolina & Feury	Leoce 70/14	Inv. 73295	\$171.00
Azzolina & Feury	Leoce 70/14	Inv. 73526	\$114.00
North Jersey Media Group	Notice of Decision Woodrow	Inv 4156995	\$13.77
North Jersey Media Group	Virtual Meeting Notice 8/20/20	Inv 4316202	\$27.55

Resolution: Return of Escrow Upon a motion by Mr. Barbieri, seconded by Mr. Clores, and approved by all those eligible to vote at the regular meeting of the Alpine Zoning Board of Adjustment held on August February 20, 2020 to approve the return of the following escrow which has been reviewed and approved by the Board Attorney and Borough Engineer.

Robert F. Policano Trust AC 70200	Block 47 Lot 10 979 Closter Dock Road	Resolution 1/16/2020	\$308.50
Michael J. Woodrow Trust AC 70202	Block 44 Lot 6 13 Main Street	Resolution 4/16/2020	\$11.23

HEARINGS**McCaffrey Block 42 Lot 4 1010 Closter Dock Road Appeal**

Chairman Glazer noted the Board received a letter dated August 6, 2020 Matthew G. Capizzi, Esq. requesting this matter be carried to the meeting scheduled for October 15, 2020 consenting to an extension of time through October 31, 2020 for the Board to render a decision. Public notice will be required.

Leoce Block 70 Lot 14 – 1 Old Saw Mill Road

Matthew G. Capizzi, Esq. of Capizzi Law Offices 11 Hillside Avenue, Tenafly, NJ 07670 appeared on behalf and with the Applicants, Mr. and Mrs. Craig Leoce. Also appearing for the applicant is Thomas W. Skrable, P.E., P.P. 65 Ramapo Valley Road, Suite 213, Mahwah, NJ. No members of the public appeared for this matter.

Applicant seeks approval to install an in-ground pool in the functional rear yard opposite their front door. The property fronts both Old Saw Mill Road and Closter Dock Road. The home is oriented toward the Old Saw Mill Road cul-de-sac and the functional rear yard abuts Closter Dock Road. The proposed pool complies with improved coverage and applicable setbacks. There is no other yard in which to construct a pool. Accessories structures are required to be in a rear yard.

Exhibits marked as follows:

- A- 1 Proof of Publication in The Record August 8, 2020.
- A - 2 Certified Mailing to Residents within 200' on August 7, 2020 per Tax Assessor's List dated June 18, 2020
- A - 3 Application received June 9, 2020 signed and dated April 16, 2020 with attachments:
 - Proposals and Reasons for Relief dated June 5, 2020Administratively incomplete and supplemented June 23, 2020:
 - Notice property taxes paid through 6/15/2020.
 - Tax Assessor's 200' list dated June 18, 2020
- A - 4 Zoning Review letter February 26, 2020
- A - 5 Photo exhibit consisting of Aerial view, front street view, side view, rear yard undated
- A - 6 Plan signed and sealed by Thomas W. Skrable, PE consisting of one page entitled: "Site Plan & Soil Erosion & Sediment Control Plan" dated 2/7/2020 no revision.
- A - 7 Azzolina & Feury letter July 24, 2020

Thomas Skrable was sworn, testified to his credentials and qualified as an expert in his fields. Mr. Skrable testified to his plan **[A-6]**. Existing conditions consist of a single-family home, driveway, and a raised rear patio. They propose modifying the existing patio and installing a lower patio, pool and spa. Drainage from the patio and pool area will be directed towards an underground Cultec storage system. Calculations are very conservative with provision of a perimeter drain around the pool to capture water before it flows into the pool. Runoff from the yard currently goes to an existing inlet and drainage system that will be maintained.

The property has frontage on Old Saw Mill Road and Closter Dock Road. Per Mr. Frenzel's letter, "If two front yards exist and either is non-conforming, the lesser shall be considered the front yard." In this case the shorter is Old Saw Mill Road, that is the orientation of the front door and that is considered to be the "front yard". The Closter Dock Road side would be considered a "rear yard" but they still have to meet front yard setback requirements which do comply. Mr. Skrable did not know if is still technically a front yard because it fronts on a street but believed an accessory structure would not be allowed on the Closter Dock Road frontage.

The pool and patio are a little under 1,300 square feet, a modest number. The pool is thirty-five feet long by eighteen foot-wide and is not quite rectangular as a spa and an adjacent small sun shelf cuts into the pool area at the far side and near east corner. The latter feature has a depth of six to ten inches for placement of a lounge chair or for children.

Almost all of the frontage along Closter Dock Road has a two to three-foot rock wall topped with a board on board wooden fence providing about nine foot of screening. Interiorly there are large trees averaging twelve foot on center providing a dense tree line. The pool will not be visible from Closter Dock Road.

Being no members of the public, the hearing was opened to the Board.

Attorney Kates opined application of Section 220-2 Front Yard definition would suggest Old Saw Mill Road as the designated front yard. Did they challenge the zoning officer's determination? Mr. Capizzi stated no, he has had similar applications in the past directing him to this Board.

Attorney Kates received clarification there is no vehicular access from or to Closter Dock Road; it does not function as an access point.

Attorney Kates noted the zoning officer cites the building coverage is 9.44% where 9% is the maximum allowed. Does this include the pool? Mr. Skrable stated no, that is based on the building footprint. The industry has evolved and calculations are more accurate than when this house was built. He calculated the house including overhangs and felt it was the right thing to do to show the number he arrived at. The applicant obviously had nothing to do with that number being what it is.

Attorney Kates asked if he calculated whether the pool exceeds 20% of the rear yard. Mr. Skrable did not but offered they are well under that based on the orientation of the house and the huge area delineated by extensions of the rear building line. The pool is a couple per cent of that.

Mr. Glazer questioned topography and any concern of water flow into the pool. Mr. Skrable explained grading and the swale will direct runoff from the lawn to the rear drainage system.

Mr. Bonhomme asked how equipment will access the rear yard. Mr. Skrable pointed out the wheel cleaning blanket. Access will be from Old Saw Mill Road around the house. There will be no access from Closter Dock Road.

Mr. Clores noted he went to visit the site but no one was home. How should members handle that in future? Attorney Kates advised the proper procedure would be to contact applicant's counsel to schedule. Board members cannot visit in numbers that would comprise a quorum.

Mr. Frenzel wrestled with the front yard language and concluded the intent of the ordinance was that when a property has frontage on two streets, the front yard, for purposes of establishing setbacks, is the yard with the lesser frontage on the street. That pins down where the required front yard is and then the setbacks work backwards from there.

Mr. Frenzel offered as far as the functional rear yard of the property along Closter Dock Road, a concern would be the probability of that becoming a functional front yard during future redevelopment. The topographic features would pose a problem for ever installing a curb cut but more importantly is the location of this frontage about three hundred feet from the Anderson Avenue intersection. He opines the chances of obtaining County approval for a curb cut would be slim to none. The current configuration is probably the way it will always be.

Mr. Frenzel noted this is a somewhat irregular lot and unique as it fronts on two streets. The application generally complies with the regulations. He does not see where there would be any detriment to the neighborhood, the health, welfare and safety of the general public or impair the intent of the Master Plan.

Mr. Frenzel noted the proposed improved coverage is 24.99% where the maximum is 25% to emphasize care be taken and the law be laid down to their contractor to ensure they do not overbuild and create any more improved coverage as the Board would be hard pressed to approve a variance after the fact because of some construction glitch. Mr. Kupferschmid strongly concurred that is a valid point and encouraged the applicant to take that seriously adding this has happened in the past and going forward the general message is that the Board will not look at "mistakes" casually or forgivingly. He stressed they should ensure if their contractor overbuilds, they make provisions to address that with the contractor and not return to the Board to ask for a variance for additional coverage. Attorney Capizzi affirmed applicants are aware and mindful, as shown by removal of a portion of the existing driveway.

The Board discussed clarifying language for the resolution regarding the designation of front and rear yards in this instance. Attorney Kates wants to be cautious as the memorializing language will set precedent for the property. He will discuss with the Zoning Officer to better understand how he reached his interpretation noting Mr. Frenzel's comments reinforced his opinion that the front yard is owner's choice. He recommends the Board, in rendering their decision, treat this as a functional rear yard without getting into that specific interpretation which he will address in the draft resolution for their consideration for memorialization. Mr. Kupferschmid agreed that considering this a functional rear yard based on the property and the layout of the existing house is the right determination.

Resolution: Upon a motion by Mr. Clores seconded by Mr. Cohen to approve the application subject to conditions and comments expressed by Mr. Frenzel including the limitations on any further improved coverage.

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

MOTION APPROVED

OTHER BUSINESS

Mayor Tomasko wished to advise tax bills will be going out soon and will be less than last year.

The Mayor and Council introduced an ordinance to regulate special events especially commercial type parties that charge monies to attendees.

ADJOURNMENT at 8:17 p.m. upon motion by Mr. Barbieri, seconded by Mr. Cohen, and approved by all.

Respectfully submitted,
Nancy Wehmann, Secretary