

ALPINE ZONING BOARD OF ADJUSTMENT

Reorganization & Regular Meeting
Thursday, January 16, 2014 - 7:30 P.M.
(This meeting was 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 7:35 p.m., Thursday, January 16, 2014 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, January 16, 2014 has met the requirements of the law by being published in The Record as part of the Annual Notice on January 8, 2014, 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 the oath of office to **Anthony Barbieri** as Alternate Member #1 for a two year term expiring 12/31/2015. Anne Ronan was not present and will be administered the oath at a later time.

ROLL CALL

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

Staff Present on Dais: Attorney Michael Kates, Borough Engineer Gary Vander Veer, Board Secretary Nancy Wehmann

APPOINTMENTS The following positions were appointed by unanimous affirmation:

Chairman: Richard Glazer upon a motion by Mr. Burns, seconded by Mr. Bonhomme

Vote: Ayes: Shadek, Bonhomme, Barbieri, Burns, Kupferschmid, Glazer

Vice Chair: deferred

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

Vote: Ayes: Shadek, Bonhomme, Barbieri, Burns, Kupferschmid, Glazer

Board Attorney: Upon a motion by Mr. Glazer, seconded by Mr. Bonhomme at the 2014 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, Rapone Ellis & Farhi, 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 2011 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 Press Journal.

Vote: Ayes: Shadek, Bonhomme, Barbieri, Burns, Kupferschmid, Glazer

MOTION CARRIED

CONTINUED HEARINGS

Wellington Block 55 Lot12 – 954 Closter Dock Road

This matter was carried from the December 19, 2013 meeting. Representing themselves are Owner/Applicants, Mark and Stevi Wellington. Their next door neighbor, Mr. Song also appeared as an objector. Affidavits are on file from Larry Shadek and Richard Bonhomme having listened to the recording of the December 19, 2013 hearing. To review those present who are eligible to vote on this matter are Mr. Glazer, Mr. Burns, Mr. Barbieri, Mr. Shadek and Mr. Bonhomme.

Additional Exhibits were marked during the course of these proceedings:

A – 14 Mr. Song's survey Block 55 Lot 11 dated May 14, 1976

A – 15 Set of 3 photos provided by Mr. Wellington

Chairman Glazer recalled the Board had awaited a plot plan from Mr. Song showing setbacks to the subject property. This has been provided **[A-14]**. He thanked Mr. Song noting although the plan does not show the Wellington home, it is useful.

Mr. Wellington distributed several copies of a set of 3 photographs marked **A-15**. In Photo #1 [Google earth #6 in lower right hand corner] Mr. Wellington pointed out foliage on Mr. Song's property that blocks views of his garage from Mr. Song's side and front windows. Photo # 2 [Google earth #10 in lower right hand corner] is a closer look showing Mr. Song's two side windows between a willow tree behind the garage and the foliage on Mr. Song's side of the fence. Photo #3 [SUV close-up taken by Mr. Wellington] shows trees Mr. Song has planted in the last several years. Mr. Wellington stated Mr. Song's landscaper informed him they are Green Giant Arborvitae expected to grow 20-30 feet tall.

Mr. Wellington recalled about 20 years ago Mr. Song purposely had his landscaper, Frank Conci, plant hybrid Lombardi poplars which grow about a foot a year to block views but they grow and then they die. The eave of the garage will be six foot higher but there will be no change in Mr. Song's view. He stated Mr. Song has asked him to bring him some of his bamboo plants as shown in Photo #2 and he advised Mr. Song the bamboo will spread to his property in a few years. Mr. Wellington did note that an apple tree shown in Photo#2 is now gone. Mr. Wellington stated Mr. Song had a six foot fence out to the street but had to cut it down to four feet within ten feet of the road to comply with Borough ordinances. Mr. Wellington trims the bushes a little to keep them to the height of the fence. The only view the higher garage might obscure is of a corner of his driveway as seen from Mr. Song's side windows.

Mr. Wellington recalled a Board member had raised a question regarding air rights. He stated that has nothing to do with this application as "air rights" basically means "the homeowner owns from heaven to hell in the Latin except for zoning and also the good will of people not blocking fire exits". He further noted Alpine has no ordinance on tree heights and Mr. Song has never asked him to trim his willow tree which is what blocks the views. For the record, he wished to state while Mr. Song had delivered the plot plan to Borough Hall he did not give him a copy as requested at the last meeting. He had to obtain a copy from Borough Hall which he received two days ago.

Mr. Song had no questions for Mr. Wellington.

Mr. Kates asked when the Google earth photos were downloaded. Mr. Wellington replied within the last three days. He does not know when Google took the photos but surmised #1 and #2 are at least a year earlier than #3 which shows the current arborvitaes. He further added they can't be that old because photo #1 shows the solar panels on his house. Mr. Wellington took Photo #3 a few days ago.

Mr. Bonhomme asked about protection from encroachment by the bamboo. Mr. Wellington replied that to the contrary, Mr. Song has asked him to allow his bamboo to grow on his side. Mr. Wellington has constructed barriers on his side to keep the bamboo out of his septic area and trims them. They grow quickly as both yards are wet in that area.

Mr. Burns asked Mr. Song what view is being obstructed. Mr. Song shrugged and stated "it's that simple." Mr. Burns noted the plans show Mr. Wellington's yard is fifty feet wide and Mr. Song's house is set back 50 feet. Mr. Song would not be looking directly at Mr. Wellington's property but the next property. Mr. Song replied yes. Unless he wants to look at Mr. Wellington's house from his front porch, Mr. Burns offered the garage addition will provide him more privacy. Mr. Song replied, "That's all I can say."

Mr. Barbieri asked Mr. Song if he was happy with the bamboo. Mr. Song replied he has no objection to that.

Mr. Shadek asked Mr. Wellington to clarify the proposed height. Mr. Wellington replied it will be approximately six feet higher at the peak. It's 12 feet now and the way height is calculated he can go 17 feet 8 or 9 inches. Mr. Vander Veer noted to avoid a height

variance he needs to keep the distance to the midpoint of the roof at 15 feet or less. Mr. Bonhomme offered the type of shingle and ridge cap can add another 4 inches. Mr. Wellington referenced the schematic A-13 shown at the last hearing. There were no further questions or public comments.

Resolution: Upon a motion by Mr. Bonhomme, seconded by Mr. Burns to approve the Wellington's application subject to the usual conditions.

Vote: Ayes: Shadek, Bonhomme, Barbieri, Burns, Glazer

MOTION CARRIED

NEW HEARINGS

Mewani Block 49.02 Lot 24 – 30 Haring Lane

Mr. Burns and Mr. Glazer recused themselves as they live within 200 feet of the subject property. They stepped down from the dais and sit in the audience.

Mr. Shadek, as senior member, assumed the Chair.

David M. Watkins, Esq. with offices at 285 Closter Dock Road, Closter, NJ 07624 appeared on behalf of the Applicants, Dilip and Vinita Mewani of 650 Sylvan Avenue, Englewood Cliffs, NJ 07632 along with Douglas Doolittle, P.E., P.P. of McNally Engineering 169 Ramapo Valley Road, Oakland, NJ 07436.

Mr. Watkins observed there were only four members of the Board eligible to hear the application and that, as he is not seeking a "d" variance, he will need 3 of the 4 voting in the affirmative. Mr. Kates recommended he proceed as his experts are present; he can always defer the vote. Mr. Watkins will proceed but wanted that on the record.

Opening Statement Mr. Watkins explained the application is for a single family residential structure. The house that currently exists was built in the 1970's, is in disrepair, and does not comply with current zoning. They propose to raze that house and build a new one while not increasing the existing variances. Mr. Watkins disagrees with the Borough Engineer's interpretation requiring a front yard variance stating testimony will show that the easement for the cul de sac, created as part of the original subdivision, was and is temporary as there was a question at the time as to whether the road would be extended. This property still belongs to the owner. The front yard setback is currently 85.9 feet where 60 feet is required and 45 feet is proposed but they'd comply if the easement is included. The rear yard setback is 41.9 feet where 50 feet is required and they are proposing 73.8 eliminating that nonconformity.

Exhibits were read into the record:

A – 1 Proof of Publication on December 6, 2013 in the Record.

A – 2 Certified Mailing to Residents within 200' on December 4, 2013 per Tax Assessor's List dated May 16, 2013

A – 3 Application received August 30, 2013 dated & signed August 22, 2013 including

- Proposal & Reasons for Relief
- 200 Foot Property owners List dated May 16, 2013

- Tax Collectors Proof of Current Taxes thru 2013 4Q
- A – 4 Zoning Officer's letter dated August 8, 2013
- A – 5 4 Color Photos prepared by Matthew Greco of McNally Engineering dated August 21, 2013
- A – 6 Application for soil moving permit, dated August 13, 2013 with Checklist, Travel/Vehicle Info, and Cut and Fill estimates attached prepared by McNally Engineering.
- A – 7 Storm Drainage Report prepared by Matthew Greco of McNally Engineering dated June 3, 2013 revised 11/13/2013
- A – 8 Engineering Plans prepared by McNally Engineering dated consisting of 3 pages dated November 15, 2012 Rev.#3 November 13, 2013 "Revised Per AF Review Letter dated 09/04/2013":
- Drawing No. SP-1 Site Plan/Septic System Plot Plan
 - Drawing No. SM-1 Soil Movement Plan
 - Drawing No. VM-1 200' Vicinity Map
- A – 9 Architectural Plans prepared by Robert E. Zampolin, AIA of Zampolin & Associates Architects Progress Set dated August 3, 2012 consisting of 4 pages:
- Drawing No. A2 First Floor Plan
 - Drawing No. A3 Second Floor Plan
 - Drawing No. A5 Front and Right Side Elevations
 - Drawing No. A6 Rear and Left Side Elevations
- A – 11 Letter from Borough Engineer dated September 4, 2013
- A – 12 Letter from Borough Engineer dated November 5, 2013
- A – 13 Letter from Borough Engineer dated November 18, 2013
- A – 14 Letter from Borough Engineer dated December 12, 2013

And added during the course of these proceedings:¹

- A – 15 Subdivision filed map #6975 for Pine Hill for Minetto Homes February 9, 1970
Recorded in the Bergen County Clerk's office on February 25, 1971
- A – 16 Deed
- A – 17 Continuing Certificate of Occupancy dated April 11, 2011

Douglas Doolittle, P.E., P.P. was sworn and deemed qualified to provide expert testimony. Referencing Mr. Vander Veer's December 12, 2013 letter Item II.3. seeking documentation that the attic area qualifies as ½ story per the zoning ordinance,

Mr. Watkins stipulated to compliance with the height ordinance.

Mr. Doolittle testified to the following:

Existing Conditions: The lot is 40,000 square feet located in the R-1 zone. The existing dwelling is in a state of major disrepair with a pool, patios, driveway, shed and some other associated physical features. They intend to raze everything.

¹ Exhibits A-15 through A-17 retained by the Board Attorney

Variance Relief Requested:

	<u>Existing</u>	<u>Required</u>	<u>Proposed</u>
Front yard setback	85.9 feet	60 feet	46.5 feet*
*complies at 65.8 feet with inclusion of the temporary easement (portion of cul de sac). Mr. Doolittle researched this easement created in 1971 which is clearly marked as temporary on the final plat. In his opinion the applicant does not need a front yard setback because he owns right up to the right of way line. He noted if they have to subtract the easement lot area would be substandard.			
Rear yard setback	41.9 feet	50 feet	73.8 feet
Nonconformity eliminated			
Building Coverage	11.3%	9%	11.3%
Variance remains the same – they are not making the situation worse.			
Improved Coverage	30.30%	25%	30.03%
They are decreasing the existing nonconformity.			
Garage doors and building height will comply with the ordinance.			

Drainage: Currently there are no drainage improvements on the site. They propose significant improvements. A front seepage pit to collect driveway runoff, two rear seepage pits to collect from roof drains and surface water flowing west to east², and a fourth seepage pit to collect remaining driveway and roof drain water. An additional seepage pit collects from the footing drains. These improvements will have a positive effect on the zone scheme, plan and intent.

Gates: Mr. Vander Veer's December 12 letter **[A-14]** indicated the need for a waiver for gate heights of 11'4" where 9.5 feet is the maximum permitted. Mr. Doolittle referred to the detail on Sheet SM-1 of his plans **[A-8]** to explain, while not clear, the height is not 11 feet 4 inches but 114 inches or 9 foot 6 inches. This complies.

Soil Movement Permit Application: Volumes as follows: Cut 1,855 c.y., fill 621 c.y. import 0 c.y, export 1,234 c.y. Total soil to be moved of 1,855 c.y.

Zoning Impact: Mr. Doolittle stated the proposed will enhance the zone by virtue of the positive criteria. They lessen the impact of variances, improve the structures and are adding drainage improvements. The proposed plan will make the property better and there is no negative impact on the zone scheme, plan or intent of Alpine based upon the current conditions. The proposed is better for the Master Plan and Zoning.

Opened to the Public for Questions.

Richard Glazer, Ellens Way, questioned Mr. Doolittle's depiction of the topographic change from east to west. Noting the property slopes from 412 feet on the west to 426 feet on the east, Mr. Doolittle corrected his earlier statement stating the stormwater actually flows from east to west. Mr. Doolittle noted Mr. Vander Veer has no objections to the drainage plan. Mr. Glazer questioned if razing existing structures doesn't leave them with the equivalent of an undeveloped lot. Mr. Doolittle acknowledged at one point during the construction phase this would be the case. The pool will be in the

² Mr. Doolittle later corrected the flow goes from east to west.

same approximate location but a little closer to the house, re-oriented north to south and substantially lower, about 1-2 feet above the basement floor, than what is there now; it is being cut into the ground rather than up at grade. Mr. Glazer recalled when the original grade was substantially elevated when the existing house was built. Mr. Glazer asked if any variances were required to build the existing house. Attorney Watkins replied not per their OPRA request and nothing existed then precluding the owner from constructing what is the existing footprint. Mr. Glazer asked if they considered sun exposure for the pool as the area proposed will be shaded by his trees. Mr. Doolittle responded it is typical to locate pools in the rear yard. Mr. Watkins noted, shaded or not, they do not need any variances for the pool. Mr. Glazer questioned topography. Mr. Doolittle noted while the property slopes from east to west it is relatively flat from north to south with about a grade of one foot.

Bob Burns, Alpine Drive, questioned drainage from the eastern uphill property. Mr. Doolittle replied a series of inlets on the high side will drain to the seepage pits in the rear and a swale from the northerly inlet goes forward to the seepage pit in front. Mr. Burns questioned control of runoff into the cul de sac as this is the start of a steep hill and runoff has been a problem for downhill neighbors in the past. Mr. Watkins reminded him of prior testimony that there are no drainage facilities on site now where they propose significant improvements approved by the Borough Engineer. Mr. Doolittle noted the driveway water currently flows to the street and their plan eliminates that; there will be less water from their site to the right of way. Water flowing from east to west should be intercepted by the drains and should not reach the right of way. There will be no additional runoff and likely there will be a reduction in runoff.

Opened to the Board for Questions.

Mr. Bonhomme questioned maintenance of the drainage system and if it will involve the easement. Mr. Doolittle replied it will not involve the easement. It will be privately owned and maintained. Mr. Watkins added the Board has typically required owners to stipulate by deed to maintain their drainage system.

Mr. Barbieri asked for review of the requested relief. Mr. Watkins summarized earlier testimony about the front yard setback, if needed, and continuation of improved coverage and building coverage non conformities while noting the rear yard deficiency disappears.

Discussion Regarding Front Yard Setback – Appeal under 70(a) or Variance Required.

Attorney Kates and Attorney Watkins with input from Mr. Doolittle discussed whether the front yard setback requires a variance. Attorney Kates quoted the ordinance definition of "Lot line, Front as the boundary of a lot which is along an existing or dedicated public street." Mr. Watkins emphasized the cul de sac is not dedicated but temporary as shown on the subdivision map **[marked A-15]** and the property deed **[marked A-16]**. Attorney Kates questioned when an easement in existence since 1973 ceases to be "temporary" and how that word is defined; without clarification of definition they have to confirm if it is being treated as a public right-of-way. The ordinance references an "existing or dedicated public street". Treated as an existing public right-of-way it would require a variance.

Attorney Watkins disagreed and Mr. Doolittle noted without inclusion of the temporary cul de sac the whole lot becomes deficient with an existing nonconformity for lot area.

Mr. Kates further offered that when reviewing Board submissions, they bring it to the street line and do not question whether the fee runs to the center of the street in terms of measuring off. He believes a variance is required simply based on the definition of "Lot line, Front" going right up to the right of way which says 'existing or dedicated street.' He queried if that is a disjunctive, meaning if it exists it doesn't matter whether it's dedicated or not, that's how it's being used and the term "temporary" does not impress because it exists today as it existed when the map was drawn in 1973.

Attorney Watkins absolutely disagreed whereupon Attorney Kates offered they could postpone in order to get a determination as to whether there's been a dedication or what "temporary" has come to mean in this instance. Attorney Watkins reminded they've applied for the variance he just didn't feel they need it under 70(a). Attorney Kates recommended he proceed on the assumption that he does and asked that the record reflect he has highlighted with blue marker the temporary cul de sac reference on **A-15** noting it does say "temporary."

Mr. Burns recalled the road was put in first and the property must have been sold with that cul de sac in. Mr. Doolittle theorized the developer must have thought the road would eventually be extended and you wouldn't want a bulb and then another bulb. Mr. Burns countered that with private properties to the east and a detention basin to the north there was no way the road would ever go anywhere. Mr. Doolittle did not dispute but offered the developer must have thought something was going to happen when the subdivision and the temporary easement were created.

Attorney Kates requested clarification if the Board determined the front yard setback variance was required, would that mean they need a lot area variance, too. Although he totally disagreed, Attorney Watkins offered if the Board feels that is the case, they would also request the additional relief.

Mr. Kupferschmid clarified they are essentially swapping a rear yard setback nonconformity for a front yard variance.

Building and Improved Lot Coverages. Attorney Kates questioned as they are razing all existing structures, why can't they build a smaller home to comply with current ordinances. Attorney Watkins repeated the coverages currently exist. He reminded they could keep the existing house but there would be no drainage improvements.

Mr. Kupferschmid recalled in the time before the newer ordinances they had trouble with lots being overbuilt and ensuing issues. They've tightened up the rules and things have changed. So what happens in a situation like this where you have something that was overbuilt in terms of modern zoning? Attorney Kates offered the Applicant has a choice. For purposes of redevelopment you could consider any hardship self-created. Attorney Watkins argued he hasn't torn anything down. Attorney Kates reminded the application assumes removal of the home and starting over. Attorney Watkins answered he hopes so or he'll keep the house he has with no drainage. Attorney Kates

replied this is not about semantics, this is not stupidity here; tearing it down results in a blank slate. They can build what they want and they've decided to build something that creates dimensional variances.

Attorney Watkins became angry expressing resentment at use of the word "stupidity" noting 'you have a temporary easement here and you're telling me this is not stupidity? because I've got two people objecting that are on the Board.'

Attorney Kates explained he has a self created hardship and the Board might accept that or the Applicant might present c(2) criteria that doesn't bring the self created hardship into play. He corrected Mr. Watkins that he had not called him stupid but referred to the argument denoting when Mr. Watkins first raised the question about the front yard setback he opened up his code book and began to study the issue over the course of the proceedings and prior to any one in the audience saying anything.

Mr. Kupferschmid questioned whether an applicant that cleans the slate can use what was pre-existing as an excuse to not comply with current ordinances; he's missing where a new house has a right to be the same size. Mr. Bonhomme agreed they have to look at the proposal and not what existed. Mr. Kupferschmid offered they may have an issue with the front yard setback but he's not sure about the bulk variances; if that means they have an automatic right to relief. Attorney Kates advised it does not. They're starting with a blank slate. This doesn't necessarily mean the applicant can't prove hardship to justify the same size but that's a burden of proof and simply pre-existing doesn't change that.

Attorney Watkins next provided a CCO (Certificate of Continuing Occupancy) for the existing structure for the sale of the property dated April 11, 2011 **[marked A -17]** to note if something was wrong it should've been picked up then. Attorney Kates responded that was for the sale of an existing house. Attorney Watkins stated if there were a zoning deficiency they should have been told when the house was sale. Attorney Kates responded this is an entirely different matter as issuing a CCO for an existing house has nothing to do with justification for a tear down and building new construction.

With no other questions, Mr. Shadek asked Attorney Watkins if he had any other witnesses. Mr. Watkins responded no but would carry the application because he's being set up here and he doesn't like it. Attorney Kates rebutted he is not being set up. Attorney Watkins referenced the use of the word "stupid" and Board members sitting in the audience. Attorney Kates again clarified he had not called Attorney Watkins stupid; the term used had referred to the conversation and cautioned he would not get anywhere by turning this into something that Attorney Watkins thinks he did to him.

This matter will be carried to the next regular meeting scheduled for February 20, 2014 without need for further public notice.

The Board took a brief recess from 8:40 PM – 8:47 PM.

Chairman Glazer resumed the Chair.

Alpine 906 LLC Block 90 Lot 6 SW Corner of Ruckman Road & Route 9W

Allen M. Bell, Esq., of the firm Jacobs & Bell, P.C. with offices at 26 Franklin Street, Tenafly, NJ 07670 appeared with and on behalf of the Applicant, Yong Cheol Lee, 9 Prospect Street, Demarest, NJ 07627. Also appearing on behalf of the Applicant are Vassilios (Bill) Cocoras VCA Group, 467 Sylvan Avenue, Englewood, Cliffs, NJ 07632 and Douglas Doolittle, PE, PP of McNally Engineering, 169 Ramapo Valley Road, Oakland, NJ 07436.

Opening Statement Mr. Bell described this property located on Route 9W between Kiku Restaurant and Ruckman Road as an isolated undersized, irregularly shaped lot constrained by wetlands, topography, rock and the 200 foot Buffer Zone to Route 9W as well as being a corner property with two front yards. After lengthy consideration and several plan changes they feel they've developed a plan that comes as close as they reasonably can to the requirements of the ordinance. Relief needed includes:

- side yard and front yard setback variances for only certain portions of the house by 2½ feet or less which *he considers de minimus*.
- rear yard variance due to constraints as mentioned
- disturbance of 200 foot buffer zone for drainage and circular driveway

Exhibits marked as follows:

- A – 1 Proof of Publication on January 3, 2014 in the Record.
- A – 2 Certified Mailing to Residents within 200' on January 2, 2014 per Tax Assessor's List dated October 22, 2013
- A – 3 Application received October 25, 2013 dated & signed including
 - Proposal & Reasons for Relief
 - 200 Foot Property owners List dated October 22, 2013
 - Tax Collectors Proof of Current Taxes thru 2013 4Q
- A – 4 Zoning Officer's letter dated August 30, 2013
- A – 5 Photos (4)
- A – 6 Plans signed & sealed by Matthew Greco, PE and Kevin S. Bogerman, PLS of McNally Engineering consisting of
 - Drawing No. SP-1 Site and Septic Plan dated 7/21/2012 Rev #4 11/05/2013 "Revised per AF Review Letter"
 - Drawing No. VM-1 Vicinity Map dated 8/6/2012 Rev #4 11/05/2013 "Revised per AF Review Letter"
- A – 7 Soil Moving Permit Application Signed and dated 9/21/2013
- A – 8 Storm Drainage Report prepared by Matthew Greco, PE McNally Engineering dated 9/5/2013 last revised 12/2/2013
- A – 9 Retaining Wall Stability Calculations prepared by Matthew Greco, PE McNally Engineering dated 12/2/2013
- A – 10 Plans submitted by Vassilios Cocoras, RA of VCA Group, LLC dated 4/5/2013 "For Zoning Review" consisting of 9 pages:
 - Sheet A1 Basement Plan
 - Sheet A2 First Floor Plan
 - Sheet A3 Second Floor Plan
 - Sheet A4 Attic Plan

- Sheet A5 Roof Plan
- Sheet A6 Front Elevation
- Sheet A7 Rear Elevation
- Sheet A8 Left Elevation

From Borough files"

A – 11 Zoning Official's Letter to NJDEP dated September 27, 2012

A – 12 Borough Engineer's Letter November 1, 2013

A – 13 Borough Engineer's Letter December 13, 2013

And marked during the course of these proceedings:

A – 14 Deed John Johnson & Marie his wife to John Clawson Burnett dated October 15, 1923

A – 15 Deed Chase Manhattan Bank to Louis Matielli dated December 6, 1960

A – 16 Deed Louis Mattelli and Anita Mattelli, his wife, to Alex Peshkin and Eli P. Margolin dated October 10, 1963

A – 17 Deed Alex Peshkin and Florence Peshkin, his wife and Elie P. Margolin and Molly Margolin, his wife to Lillian G. Booth, a widow dated September 18, 1970

A – 18 Deed Lillian Garis Booth, deceased to LGB Investments, LLC dated May 20, 2008

A – 19 Deed LGB Investments, LLC to The Estate of Lillian Garis Booth dated April 20, 2009

A – 20 Deed Estate of Lillian Garis Booth to Alpine 906, LLC dated March 28, 2012

A – 21 Architect's colored rendering of proposed house submitted by Vassilios Cocoros, RA

A – 22 Site Plan of Alpine Inn for Stelios Corp prepared by Conklin Associates dated Dec. 21, 1981 and Certified by Bergen County SCD February 11, 1982 (currently site of Kiku Restaurant)

A – 23 Final As-Built Block 121 Lot 1 Marcellino property prepared by Hubschman Engineering dated September 25, 2003.

A – 24 Aerial Photo (Bing maps) of subject property and adjoining neighbors printed January 16, 2014

Attorney Bell marked into evidence a series of deeds **[A-14 to A-20]** demonstrating consecutive ownership of the subject property.

Yong Cheol Lee, the Applicant, was sworn and testified and testified he is the sole owner of Alpine 906, LLC which owns the subject property. He intends to construct a single family dwelling to live in with his wife and son. He took title of the property as an LLC on the recommendation his attorney for reasons of liability until they complete construction.

Opened to the Board and the Public for Questions. There were none.

Vassilios (Bill) Cocoras, the Applicant's Architect was sworn and being his first time before this Board testified as to his credentials.³ Chairman Glazer advised Attorney Kates he used to be part owner of the building currently occupied by Mr. Cocoras's firm prior to his moving in to question Attorney Kates if that would disqualify him. Attorney Kates responded no and Attorney Bell confirmed he did not object.

Design. Mr. Cocoras prepared the plans for the subject dwelling. They propose a 2½ story one family dwelling with three major floors plus an attic, 4 bedrooms. He called attention to a colored rendering of the proposed house **[A-21]** to note the masonry exterior is an almost Frank Lloyd Wright type of design. It is a modern dwelling transitioning between the more traditional dwellings to the north and the Kiku restaurant to the immediate south. Referring to his plans **[A-10]** he took the Board through his designs:

- Sheet A-1 Basement Plan aligned with Ruckman Road consists of a 3-car garage, exercise room, bathroom, storage room, closets, large play room and utility room. To the left can be seen entry platforms above and a staircase to the first floor and steps by the garage up to the garden area. Gross area=2,940 square feet of which 901 square feet is garage.
- Sheet A2 First Floor Plan consists of front patio (facing Route 9W and circular driveway), foyer, dining room, staircase up or down, library, and family room connected to the eat-in kitchen. Over the garage is a secondary staircase to the upper floor, laundry room, pantry between dining room and kitchen and rear patio. Total area = 3,023 square feet.

The house is oriented with the front facing Route 9W consistent with the streetscape of the adjacent Kiku Restaurant and other homes along Route 9W that face 9W. They also wanted to create a backyard area facing the woods and away from Kiku.

- Sheet A3 Second Floor Plan shows the spiral staircase and upper portion of open the two story entry foyer with main staircase. There is also an open portion over the family room. There are four bedrooms including a master suite all with their own bathrooms and closets. Total area = 2,439 square feet.
- Sheet A4 Attic is accessed by a spiral staircase from the kitchen area. Total area – 649 square feet centrally located within the building footprint except for a small portion over the garage aligned with the footprint of the building.

Classification as a 2½ story dwelling The attic area is 26.6% of the second floor, well within the allowed threshold. 66% of the basement structure perimeter is less than six feet above ground which also complies.

Circular driveway In keeping with the style of adjacent dwellings and homes in Alpine they desired a circular driveway to preclude having 3 garage doors form the entryway. The tear drop front driveway with plantings in the middle provides certain grandeur and creates a more desirable visual environment.

Opened to the Public for Questions. There were none.

³ Mr. Cocoras stated he graduated from NJ Institute of Technology in 1992 and became registered as an architect in 1997. He is licensed and registered in the State of New Jersey. He also does residential additions, remodels and new one family dwellings. He has appeared before numerous Zoning and Planning Boards throughout Bergen County including Cresskill, Closter, and Englewood Cliffs.

Opened to the Board for Questions. Mr. Bonhomme questioned the rockery wall shown as part of the design for the circular driveway. It was noted the whole driveway encroaches into the 200 foot buffer zone. Attorney Kates asked if Mr. Bell was aware that such relief is treated as a use variance requiring 5 affirmative votes. Mr. Bell acknowledged same.

Mr. Kupferschmid questioned the material used for the home. Mr. Cocoras advised brick. Mr. Bell noted the driveway will be pavers. Mr. Glazer received clarification that no coverage variances are required.

Douglas Doolittle, P.E., P.P. was sworn and deemed qualified to provide expert testimony.

Existing The subject property is located on the southwest side of the intersection of Route 9W and Ruckman Road. The property is irregularly shaped going back to a cut off pie shape on the west side of the property. It has only 71,289 square feet which is substantially deficient for lot area in the RA zone where 87,120 square feet is required. It is bordered by State Highway Route 9W and Ruckman Road which is a very substandard paved road improved to only a 15 feet width. The property has two fronts 75 feet in from Route 9W and Ruckman Road. It has environmental issues with two pocketed wetland areas in the middle of the lot and a small wetlands area out along the ditch by Route 9W. About 55% of the lot is contained within the 200 Buffer Zone where no disturbance is permitted. This is currently a vacant wooded lot. There are no steep slopes. There is substantial rock on the property. They have done 22 test holes which indicated the septic systems will have to go in the rear where rock was found at a depth of 4.5-6 feet. The systems will have to be elevated to stay above rock and groundwater.

Surrounding: Referring to Vicinity Map VM-1 **[A-6]** Mr. Doolittle described the surrounding properties: Kiku restaurant to the south, Palisades Interstate Property to the east and west and single family dwellings with appurtenances to the north on the other side of Ruckman Road. He provided site plans for both the original restaurant on the Kiku site and the residence to the north marked respectively **[A-22]** and **[A-23]**. The restaurant site plan has a turnaround driveway in front, substantial parking areas along almost their entire south property line as well as behind the building and septic systems way up in the back similar to what they propose. The site plan is originally dated December 19, 1979 and finally revised 1981. The 200 foot Buffer Zone existed at that time and there is substantial development in that buffer. Attorney Kates noted the plan says Alpine Inn. Board members recalled it was called Alpine Lodge. It is now Kiku. Mr. Doolittle provided the final as built for the neighbor on the north side Block 121 Lot 1 dated September 25, 2003 certified to Anthony Marcellini. That property was granted variance relief for a side yard setback of 55.43 feet where 75 is required along Ruckman Road. There are no structures within the 200 foot Buffer Zone but they did perform grading and install the septic systems there.

Mr. Doolittle next presented an aerial photo of the subject property and its neighbors [A-24] depicting what he just described from the site surveys. All of the homes north of Ruckman Road have front entries facing Route 9W.

Proposed: Construction of a single family residence, conservatively sized for Alpine with a footprint of just under 3,300 square feet. There is a rear outdoor open patio, two septic systems with one along Ruckman Road and one to the west of the property. Driveway access is from Ruckman Road with three garage doors facing that lane and the front of the home facing Route 9W. There are also some walls in the front with a patio and then an onsite turnaround for vehicular access to the front of the home to get cars off of Ruckman Road. Impediments such as lot shape, rock and wetlands dictated size and location of the house pushing it as far west dimensionally as it can fit.

Relief Required:

Front yard setback variance of 72.4 feet where 75 feet is required for a small triangular portion of the structure. The deficiency is about 20 feet long by 2.6 feet wide.

Side yard variance of 48 feet where 50 feet is required on the south side for a small portion of the building. The deficiency is about 2.4 feet by 15 feet. From front to back the house is 66 feet. Thus the nonconformity would be less than half of the depth of the house at a measurement of 2½ feet or less.

Rear yard setback variance of 80 feet where 100 feet is required as a result of having to push the house over due to the constraints on the property.

The variances described would not be visual to anyone driving by on either of the two streets or the rear parking lot of the restaurant. They are very *de minimus*. Property to the west is [Palisades Interstate] Parkway property that will probably never be developed. The length of the home is very undersized relative to the character of an Alpine home so visually it will not stand out at all.

Disturbance of 200 Buffer Zone. They propose to construct the driveway turnaround, a circle with a planted island, some walkways to get into the front door, a drainage system under the driveway turnaround area, a proposed well and a rockery that wraps around the parking area and the walkway area. The walkway that runs along the front of the house is outside of the 200 foot Buffer Zone for most of its length. They did not have room to put the circular driveway anywhere else due to the constraints. The wider part of the property is along Route 9W. To put the circular drive on Ruckman Road would still imply that it was a side yard with a circle in front of garages where, with a home of this caliber by Alpine's standards, the anticipated point of access would be through a front

entry way and not through a garage. The proposed provides a desirable visual environment. Ruckman Road is only fifteen feet wide and you would not want to have cars parked along the road should there be a gathering at this home as they could pose a hindrance to emergency vehicles. The turnaround circle provides the needed parking area. You won't see the driveway because it is down at grade, it has a curb and a guiderail but the planted rockery as proposed will shield views even with cars parked there. As the landscaping grows it will get higher and higher. Portions to be disturbed for drainage will be revegetated. The property has multiple hardships and the benefits outweigh any detriment justifying the variances under both c(1) and c(2) criteria.

As a planner the variance relief requested is all due to the unique constraints of the property. The proposed can be granted without substantial detriment as this is an atypical lot with multiple constraints. They're improving the drainage, they provide access for emergency vehicles from a safety standpoint while preserving a large portion of the buffer protecting the views from the home and Route 9W. They would be willing to add more plantings as desired. There really is no other neighbor other than Kiku on their side of Ruckman Road. The relief can be granted without substantial impairment to the Zone Scheme or Zoning Ordinance.

Soil Moving Application with Waivers A soil moving permit is requested for cut 434 c.y., fill 3,882 c.y., import 3,448 c.y., export 0 c.y. for a total of 3,882 c.y. soil to be moved exclusive of septic systems. They request additional waivers

- to create slopes of 1:1 for the rockeries around the parking area and around the septic system at the southwest of the property.
- Fill more than 5 feet above original grade to elevate the septic systems above water and rock and for the circular driveway
- Construction of retaining walls greater than six feet for the rockery
- Disturbance of trees within the twenty foot wide tree buffer again for the septic design.

Opened to the Public for Questions. There were none.

Opened to the Board for Questions. Mr. Kupferschmid asked for review of the elevations relative to the driveway and rockery in front. Mr. Doolittle explained elevation is proposed to minimize the number of steps to the home and to create landscaping. The driveway is at elevation 542 feet at the street up to about 548 feet by the island, a variation of 4 – 6 feet.

Mr. Glazer questioned the width of the driveway. Mr. Doolittle noted the planting area is about 26 feet wide and the driveway itself is about 12 feet wide around the planted area. Mr. Glazer questioned that you wouldn't be able to park a car and then get another car by it very easily. Mr. Doolittle agreed while

noting they would have liked to have made that all driveway but wanted to landscape and beautify as well. Mr. Glazer offered it's not a very accessible parking area except for the guy who's out first. Mr. Doolittle offered the main thing is getting cars off the road because Ruckman Road is a really difficult road, being only 15 feet wide and not curbed so if you pull off the road you're going down into the mud. Mr. Glazer offered an alternative would be coming in off of Ruckman Road and egressing out to Route 9W. Mr. Doolittle countered that would disturb a lot more of the 200 foot Buffer Zone plus accessing Ruckman Road is preferable to access onto a State Highway.

Mr. Burns received confirmation that the site will require a well; there is no public water service.

Mr. Vander Veer called attention to the comments in his December 13, 2013 letter **[A-13]** particularly numerous technical issues regarding the stormwater management and the septic system design. Mr. Doolittle feels they can address them all. Attorney Bell stated they would agree that any approval be subject to satisfying the requirements of the Borough Engineer.

Mr. Barbieri questioned if Ruckman Road is paved at all. Attorney Bell responded there is a 15 feet width of blacktop primarily on the opposite of the right of way. The right of way on their side is grass. Aesthetically there is much more greenery between the blacktop and the home than what is actually deeded. Ruckman Road is a through street on the tax maps but not in reality; at the end it narrows to a bicycle path.

Mr. Shadek questioned how far into the 200 foot Buffer Zone the disturbance encroaches. Mr. Doolittle responded the disturbance would be about 142 feet from Route 9W or about 58 feet into the Buffer Zone at its widest point, the teardrop. Mr. Doolittle asked them to bear in mind that the north neighbor also has septic systems and drainage under the lawn encroaching into the Buffer Zone and to the south almost all of Kiku's impervious coverage is within the Buffer Zone. They tried to come up with an average and a practical design despite the constraints. Attorney Bell noted they had two prior designs that they discarded because they felt they could make it better and they kept shrinking the encroachment into the 200 foot Buffer Zone. The house was shrunk a little bit and it is a conservative size by Alpine's standards.

Mr. Glazer asked Attorney Kates to review the (d) variance requirements. Attorney Kates noted the only permitted use in the Buffer Zone is conservation and anything that is accessory to home construction is a non-permitted use. That being said this is not your typical kind of prohibited use because the ordinance creating the Buffer Zone addresses some of the issues raised by this application. The first is reverse frontage meaning no access onto Route 9W

which the Applicant has achieved. The second is minimizing the disturbance to the extent possible with specific reference to access driveways. One of the focal points is natural state landscaping. In another prior application there was a concern because the owner had proposed lawn and shrubbery and that was pulled back at this Board's request because that is not the intent of the Zone. That is not the case here where everything beyond the driveway will be left in its natural state. Attorney Bell and Mr. Doolittle affirmed. In a "d" variance the Applicant is charged with proving a special reason within the concept of planning criteria essentially for the greater benefit of the community rather than for the benefit of the applicant. This application is kind of tweaking that if in fact the plan minimizes the disturbance that in and of itself is for the benefit of the community and may be a special reason has been achieved by design features. Another aspect is that every "d" variance has to meet negative criteria and that is all about not offending the neighbor or the neighborhood and this Application, because of the commercial use next to it and Ruckman Road on the other side, probably creates no precedent for future encroachment because of the way it is positioned.

Attorney Bell believes they did prove some special reasons in that there was testimony that the proposed created a desirable visual environment and also aided in safety by getting cars off of Ruckman Road which promotes the general welfare as well.

Mr. Glazer questioned tree removal. Mr. Doolittle noted trees to be removed will be mitigated based on the requirements of the Borough Engineer and Environmental Commission. He understands this is a heavily wooded undeveloped lot and they are removing some pretty big trees. Mr. Glazer noted he is particularly concerned about four trees facing Route 9W which would be to the south of the teardrop driveway; some big hickory trees. Mr. Doolittle offered as long as they're healthy he does not see why they can't stay. Mr. Glazer noted they are marked for removal. Mr. Doolittle will change that. Mr. Glazer noted hickory trees are hard and slow to grow. Mr. Bell stipulated they don't want to remove any trees they don't have to, especially large trees. Attorney Kates asked what reason there was for having marked them for removal. Mr. Doolittle stated that might have been because they had a retention system earlier that didn't get updated; he would have to review. There is no grading or disturbance proposed for that area in this plan and they can certainly leave them. Mr. Glazer noted another good sized hickory is inside the teardrop but Mr. Doolittle explained because of the fill to that area, that tree would likely die in a year or two and should come down.

Mr. Kupferschmid noted this is an extremely difficult lot and commended the plan observing they've planned for 4.62% building coverage when 9% is allowed

and 17.9% improved coverage when 25% is permitted. He thinks they went about this the right way and tried to consider everything.

Mr. Vander Veer noted the property has extensive frontage along Ruckman Road, a road with minimal pavement. He asked if they can request the road be widened along that portion. Attorney Kates tried to determine the improved area of Ruckman Road relative to the location of the driveway. Mr. Vander Veer noted the 15 foot paved portion of Ruckman Road is pretty much on the opposite side of the Ruckman Road right of way, a 66 foot right of way. That leaves 30-35 feet of lawn area between the property line and the first edge of pavement in this right of way. It was noted Ruckman Road never widens to the full width of the right of way. Attorney Kates asked if the Borough has any plans to widen the road or if it's a County road. Mr. Vander Veer explained widening would be a municipal assessment project. The Borough has no current plans to take this on as a municipal improvement project. Attorney Bell noted no one else who would benefit from it. Mr. Kupferschmid recalled past discussions not to develop Ruckman Road. Mr. Vander Veer noted Alpine would prefer to open it up to relieve traffic on Closter Dock Road but that has been stopped by others. Attorney Kates noted if there were a plan the applicant would have to participate in the assessment but absent a plan he sees no basis to require it.

Opened to the Public for Comments. There were none.

Summary. Attorney Bell offered they tried to be sensitive to a very sensitive site with multiple revisions and discussions. This is an isolated undersized lot with deeds that go back to 1923. What they propose is well thought out, an amenity providing a nice new home for his client and it doesn't disturb anyone. They have a parking lot on one side and a road on the other side. The variances they seek, other than disturbance of the Buffer Zone, are negligible. They've worked long and hard to minimize the disturbance of the Buffer Zone – they don't think it's going to be visible from Route 9W. They will landscape a lot and they don't think it will be visible from Ruckman Road either. They feel they've met and tried to be sensitive to the criteria. Attorney Kates added improving it as a home frustrates the potential of it being developed for another commercial purpose and that is a furtherance of the Zone Plan or Zone Ordinance.

Mr. Glazer offered it would be good if they could provide Mr. Vander Veer with more information regarding the planting on the rockery facing Route 9W. Attorney Bell stated they would.

Resolution: Upon a motion by Mr. Shadek seconded by Mr. Kupferschmid to approve the application for Alpine 906, LLC subject to the usual conditions.

Vote: Ayes: Shadek, Barbieri, Burns, Kupferschmid, Glazer

Nays: Bonhomme

MOTION CARRIED

COMMUNICATIONS

Internal Contact List The Board was asked to review and advise the secretary of any changes to the internal contact list.

Letter 1-10-2014 from Borough Engineer re: Tahari Block 20 Lot 11 (Resolution 9/19/2013)

Mr. Vander Veer explained the applicant resubmitted requested information on drainage for his review.

PROCEDURAL MOTIONS

Resolution: Approval of Minutes: Regular Meeting December 19, 2013 Upon a motion by Mr. Barbieri, seconded by Mr. Burns and approved by all those eligible to vote at the reorganization and regular meeting of the Alpine Zoning Board of Adjustment held on Thursday, January 16, 2014 to approve the minutes of the regular meeting held on December 19, 2013.

Resolution: Approval of Bills and Claims Upon a motion by Mr. Barbieri, seconded by Mr. Bonhomme and approved by all those eligible to vote at the regular meeting of the Alpine Zoning Board of Adjustment held on Thursday, January 16, 2014 to approve the following Bills and Claims:

Azzolina & Feury Engineering	Escrow: Wellington 55/12	Inv. 61058	267.50
Azzolina & Feury Engineering	Escrow:Mewani 49.02	Inv. 61053	588.50
Azzolina & Feury Engineering	Escrow:Levin 81.01/4	Inv. 61052	133.75
Azzolina & Feury Engineering	Escrow:Alpine 906 LLC	Inv. 61046	888.75
North Jersey Media Group	Escrow:Levin 81.01/4	Inv. 3615802	22.68

MOTION CARRIED

OTHER BUSINESS

Resolution: 2014 Budget Recommendation Upon a motion by Mr. Burns, seconded by Mr. Barbieri to recommend a proposed budget (zero increase) for 2014 to the Mayor and Council. Mr. Glazer also noted we were substantially under budget for 2013.

2013 Annual Report Deferred to next meeting due to time constraints.

Mayor's Comments Mayor Tomasko advised Gail Warming-Tanno is retiring at the end of the month and will be honored at the Mayor and Council meeting January 22nd. She will be succeeded by former Police Chief Jerry Beckmann who will be appointed Acting Municipal Clerk at that meeting. Chairman Glazer noted Ms. Warming-Tanno has been a staunch member of the Alpine community for a long time.

ADJOURNMENT at 10:02 p.m. upon motion by Mr. Bonhomme, seconded by Mr. Shadck and approved by all.

Respectfully submitted,

Nancy Wehmann, Secretary