

ALPINE ZONING BOARD OF ADJUSTMENT

Regular Meeting

Thursday, June 20, 2013 - 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 Chairman Glazer at 7:30 p.m., Thursday, June 20, 2013 at the Alpine Borough Hall, the Pledge of Allegiance recited and the Public Announcement read according to the requirements of the Sunshine Law:

In accordance with the provisions of the Open Public Meetings Law, the notice of this regular meeting held Thursday, June 20, 2013 has met the requirements of the law by being published in The Record as part of the Annual Notice on January 5, 2013, posted on the bulletin board in the lobby of the Borough Hall and a copy filed in the office of the Borough Clerk.

ROLL CALL

Richard Glazer	Present	Bob Burns	Absent
Tony Clores	Present	David Kupferschmid	Absent
Ann Ronan	Present	Richard Bonhomme	Absent
Larry Shadek	Present	Steve Cohen, Alt I	Present
		Anthony Barbieri, Alt II	Present

Staff Present on Dais: Attorney Joel Ellis, of the firm Kates, Nussman, Rapone, Ellis & Farhi, LLP, for Board Attorney Michael Kates, Borough Engineer Gary Vander Veer, Board Secretary Nancy Wehmann

REQUEST FOR MATTERS TO BE CARRIED

Nadjafian Block 72 3&3.01 70 Berkery Place - Letter dated June 10, 2013 from new counsel, Matthew G. Capizzi, Esq. with offices at 11 Hillside Avenue, Second Floor, Tenafly, NJ 07670 on behalf of the Applicants, requests matter be carried to the next meeting, July 18, 2013, without need for further notice. Applicant grants an extension of time to render a decision.

Tahari Block 20 Lot 11 31 Rio Vista Drive

Arash Emami Block 73 Lot 16 – 8 Dogwood Lane

Letters dated June 20, 2013 from David M. Watkins, Esq. with offices at 285 Closter Dock Road, Closter, NJ 07624 on behalf of Applicants requesting matters be carried to the next meeting, July 18, 2013, without need for further notice. Proofs of public notices on file for both applications. Applicants agree to extend time required for decision.

NEW BUSINESS Amended By-Laws – circulated. Includes Section 1.2.5 establishing time of adjournment as follows: **1.2.5. Time of adjournment.** *Meetings shall be adjourned at 10 o'clock p.m. or as soon thereafter as is reasonably practical, in the discretion of the Chairperson; or as may be extended by a majority vote of the members present, which shall have priority.* Attorney Kates explained the By-Laws were reprinted for approval as a complete set for the benefit of refreshing new and old members on the By-Laws.

Resolution: Upon a motion by Mr. Cohen, seconded by Mr. Shadek at the regular meeting of the Alpine Zoning Board of Adjustment held on Thursday, June 20, 2013 to approve By-Laws. **Vote: Ayes:** Shadek, Cohen, Clores, Ronan, Barbieri, Glazer

MOTION CARRIED**MEMORIALIZATIONS** None**OTHER BUSINESS** **Luk Block 39 Lot 8 Robin Lane**

Allen M. Bell, Esq., with offices at 26 Franklin Street, Tenafly, NJ 07670 appeared on behalf and with Applicant, contract purchaser Charles Luk, 30 Douglas Court, Staten Island, NY 10304. Re-appearing for Applicant are Douglas Doolittle, PE, PP of McNally Engineering, 169 Ramapo Valley Road, Oakland, NJ 07436; Kevin Brody of Mistry Design, LLC, 17 Main Street, Netcong, NJ 07857; and Karen Arendt, Landscape Architect, 12 Old Minisink Trail, Goshen, NY 10924. Also speaking for the application is property owner, Louis Tolerico, Jr. POB 624, Alpine, NJ 07620.

Thomas Herten of Archer & Greiner, 21 Main Street, Hackensack, NJ 07401 appeared on behalf and with Objector, neighbors Steven & Karen Helf of 28 Robin Lane, Alpine, NJ Block 39 Lot 9.03. Mr. Herten retained Sharon Stoppiello, C.C.R. of Depolink, One Cape May Street, Harrison, NJ 07029 to prepare a transcript of this evening's hearing. He will provide a copy to the Board. Also appearing at Mr. Herten's request is Jeffrey Morris, P.E., P.L.S., P.P. of Boswell Engineering, 330 Phillips Avenue, South Hackensack, NJ 07606 to provide engineering testimony and Kathryn M. Gregory, P.E., P.P. of Gregory Associates LLC 96 Linwood Plaza #350, Fort Lee, NJ 07024 to provide planning testimony.

Exhibits received after May 16 hearing but prior to the June 20 hearing noted:

- A – 30 Transcript of May 16, 2013 hearing prepared by Sharon B. Stoppiello, CCR of Depolink Court Reporting & Litigation Support Services
- A – 31 Plans from Karen Arendt Landscape Architect (KALA)
 - Colorized Conceptual Landscape rendering Revision #1 June 4, 2013 “Revised Clearing Limits. Add plants”
 - Tree Replacement, Screening and Conceptual Landscape Plan (includes details) Revision #1 June 4, 2013 “Revised Clearing Limits. Add plants”
- A – 32 DEP Authorization for Freshwater Wetlands general Permit No. 6 and a Water Quality Certification along with Plan entitled “Concept Plan #1” prepared by McNally Engineering, LLC dated April 21, 2009 Rev. 1 dated April 26, 2010 “Revised per B. Laing Comments”
Note: the DEP letter references the plan as dated but there is no DEP stamp on the plan as attached. Only 3 copies provided – one for Board Attorney, one for Borough Engineer and one for Board Central File
- A – 33 Storm Drainage Report prepared by McNally Engineering dated September 2, 2012 Rev. #2 dated May 31, 2013 *Note: Only 3 copies provided – one for Board Attorney, one for Borough Engineer and one for Board Central File*
- A – 34 Aerial map showing structures on adjacent properties entitled 200' & 300' Radius Aerial Map prepared by McNally Engineering dated June 3, 2013
- A – 35 Color Photographs of the site and surrounding property consisting of 23 photos on 12 pages plus cover sheet
- A – 36 Plans prepared by McNally Engineering consisting of 6 pages:

- SP-1 Site Plan / Septic System Plot Plan dated January 10, 2012 Rev. #4 dated June 3, 2013 Revised per Planning Board Comments"
- SM-1 Soil Movement Plan dated January 10, 2012 Rev. #4 dated June 3, 2013 "Revised per Planning Board Comments"
- VM-1 200' Vicinity Map dated January 10, 2012 Rev. #4 dated June 3, 2013 "Revised per Planning Board Comments"
- TH-1 Test Hole Plan dated June 3, 2013
- PS-1 Profile Robin Lane dated June 3, 2013
- SL-1 Steep Slope Plan dated November 15, 2012 Rev. #3 dated June 3, 2013 "Revised per Planning Board Comments"

A – 37 Borough Engineer's Letter dated June 20, 2013

Exhibits marked during the course of these proceedings:

A – 38 Affidavit by Board member Richard Glazer having read the May 16, 2013 transcript of these proceedings [A-30]

A – 39 Letter dated May 20, 2013 along with Architectural Plan from Mistry Design, LLC signed & sealed by Yogesh Mistry dated April 9, 2012 Revised June 20, 2013 "Added heights at Roof"

O – 1 Borough of Alpine Sanitary Code particularly Article XXIV Re: Septics

O – 2 Copy of the Concept Plan [A-32] highlighting building envelope in yellow.

Mr. Bell recalled experts to explain plan revisions made since the last hearing.

Douglas Doolittle, P.E. (still under oath from May 16, 2013 meeting)

Amended Plans [A-36] Mr. Doolittle reviewed changes:

- Moved seepage pits out of steep slope area where new test hole data revealed rock at 1.5 feet. Water at rear of property will now be directed to a strip drain system along the property line, drained through filtration for water quality, and pumped to a retention system constructed under the turnaround in front of the home. Test holes there reveal rock at 48 and water at 24 inches. These drainage systems collect water from all impervious surfaces. Overflow piped to the municipal storm drain that cuts across the easterly property to Robin Lane. There will be less runoff post construction than currently exists.
- Steep slope variance 15-24.99% is still needed for a very small *de minimus* portion of the driveway at the front and rear; may just be a calculation error.
- Added berm and silt basin along west Limit of Disturbance to control silt and erosion during construction per request of the westerly neighbor's engineer.
- Re-located gas and water lines onto their property and off neighbor's.
- Added contours around septic system, a note to add more drainage inlets if required, and more spot elevations for the retaining walls per Borough engineer.
- TH-1 **[A-36]** New test hole data reveals rock at 2-4 feet at foundation and prior data shows rock at 3-5 feet under proposed septic fields locale.
- PS-1 **[A-36]** provides Robin Lane profile to show proposed house 197 feet west of neighbor's on Lot 9.03. Neighbor's roof at elevation 387 feet is 6 feet lower than

proposed garage floor level at 394 feet. Woods and substantial vegetation between properties will make views minimal.

Photos. **[A-35]** Mr. Doolittle described new photos taken for added perspective.

- Page 1&2 From Robin Lane looking NE towards Lot 9.03 (westerly neighbor).
- Page 3&4 Lot 9.03 garage and view of subject property from in front of garage.
- Page 5 Rear of home on Lot. 9.03 and view from former seepage pits locale looking down through woods at Lot 9.03; part of the roof visible through trees.
- Page 6 Views (Top) from rear of proposed home looking north to fence and (Bottom) a portion of affordable housing units on Borough property.
- Page 7&8 Closer views of Borough property looking east and north to show affordable housing substantially distant from their proposed construction.
- Page 9 (Top) View from their property – to the right is proposed septic locale. (Bottom) view in front of their property looking left/east to Lot 9.04.
- Page 10 (Top)View from front of their property looking across the street to home (Lot 9.05) mostly obscured by trees. (Bottom) That home's driveway.
- Page 11 (Top) View from same location looking west down Robin Lane and (Bottom)view from proposed driveway down through the woods to Lot 9.03.
- Page 12 View looking across the street at the next home down on Lot 9.06. That home is substantially lower than Robin Lane and heavily wooded.

Aerial Map. **[A-34]** Provided per Board's request and overlaid with 200' (red) and 300' (yellow) radius lines to show no improved space at rear of property for quite some distance and proposed is compatible being same or slightly smaller than other homes in area. Borough tennis courts are 120 and affordable housing units are 320 feet away.

Mr. Doolittle maintains relief will not pose substantial detriment to the public good and will benefit the health and welfare of the community. The building envelope is 16 foot wide thus anything outside needs a variance. A single family home is consistent with the zoning. The house will not stand out from or inhibit other homes in the neighborhood. Improved drainage will be better for Lot 9.03 than what currently exists. The proposed will not impair the intent or purpose of the Zone Plan/Ordinances. Hardship exists due to constraints of the 200 foot buffer zone, steep slopes and narrow shape. It is somewhat buffered by public property to the rear. He does not foresee future building on the public land, at least not a single family house. The proposed home is conservatively sized, will blend in and is not overbuilding. At the end of the day it's a better project than not developing the property.

Open to the Public for Questions. **Mr. Herten** questioned Mr. Doolittle on several issues:

Extent of Relief Sought Per Aerial Map **[A-34]** asked if other homes required this much relief? Mr. Doolittle would have to review their histories. He does not know the exact number of variances/waivers they are seeking.

Views from Lot 9.03 Mr. Doolittle clarified home on Lot 9.03 was not visible through the woods 'at the time' photos **[A-35]** were taken. The height of the proposed structure is 44 – 46 feet high and with grade change would be 71 feet higher than Lot 9.03. Mr. Doolittle conceded trees are deciduous and home would likely be visible half the year.

Proposed Plan **[A-36]** vs. DEP Concept Plan **[A-32]** Mr. Doolittle's firm prepared DEP submission for Freshwater Wetlands General Permit No. 6 for the property owner. The Concept Plan is not stamped by DEP but date, April 26, 2010, is same referenced in DEP's letter authorizing fill of 0.09 acres. He did not analyze plan for zoning and does not know what variances or waivers it would require. The building envelope and setbacks on this plan show an angled house with front yard setbacks of 65 feet and 45 feet at the corners. 60 feet is required. Mr. Doolittle believed the front setback line should have been consistently drawn at 60 feet but acknowledged this plan shows front of the home within building envelope. Rear yard setbacks at corners are 30 and 48 feet where 50 feet is required. He acknowledges a goal of planning is to minimize variances adding "where practical" and opining any plan for this property will require substantial relief. As a Concept Plan, they did not include the amenities and the pool is set further back from both property lines. For brevity sake, the Board advised Mr. Herten they recognize the substantial difference between concept and proposed plans.

Drainage revised per RSIS will capture as much of the Borough property runoff as possible. Water sheet flows northeast to southwest. Mr. Herten questioned practical reality of design as the line of trees proposed along the rear will likely be mulched; debris can clog inlets causing overflow in heavy downpours. Mr. Doolittle states they'll grade to direct water towards their drainage system. The owner must maintain per deed restriction. A 12 inch pipe is sufficient; they typically just use 8 inch. Mr. Herten noted Mr. Vander Veer's letter **[A-37]** indicates the front retention system is under water. Mr. Doolittle acknowledges they need to raise the system or lower the water level. It is a closed system and little silt/debris will get in. Mr. Herten persisted as to result if not maintained; water will overflow onto the neighbor's property. Mr. Doolittle finished 'or into the street like any other drainage system'.

Wetlands Permit Mr. Doolittle acknowledges the proposed requires amendment of the DEP wetlands permit to fill more than the 0.09 acres currently approved. He does not know the exact acreage or if proposed contours were approved. They have not yet applied for the Consistency Determination but believe they can get approval.

Septic Systems Mr. Herten quoted from the Alpine Sanitary Code, marked **[O-1]**:
"Article XXIV Septic Tanks, Cesspools. Section 2408 Section 7:9A-4.3 of the "Standards" is hereby amended to provide that all components to be located at least 100 feet from any well on a

horizontal plane and 75 feet from any ground water diversion, underground drain, or any poorly drained, low or swampy ground, or any water course or drainage ditch."

Mr. Herten questioned the proposed does not comply with Alpine's code. Mr. Doolittle replied while local code can be stricter than state code, as noted in Mr. Vander Veer's letter 11-9.c. **[A-37]**, N.J.A.C. 7:9A-10.7 permits interceptor drains for lesser separations if they satisfy calculations which they will do using a 20 mil pond liner installed on the downhill side of the septic field. The distance will be roughly 20-25 feet. Mr. Herten argued they are proposing an underground drain. Mr. Doolittle rebutted while a cutoff /interceptor drain, that is not how Alpine defines it. They've installed numerous such drains in Alpine. In addition, Mr. Doolittle noted the 12 inch drainage pipe, that runs through the middle of the property about 25-30 feet from the septics/wetlands, does not have to be the required 50 feet away because it is a closed system.

Drilling and Hammering Mr. Herten reviewed prior testimony and data from the Test Hole Plan **[A-36]** to note for the house, they need to remove 11-15 of rock at the east end and 6-7 feet at the west end. They need to remove 2 feet of rock for the septics and add 6 feet of fill. They don't know if the rock will be permeable for septics. Mr. Doolittle recognizes the need for a lot of drilling, hammering and blasting on site. How long this will take depends on density of rock and equipment.

Multiple unknowns Mr. Herten offered there are a lot of unanswered questions: if DEP will approve a Permit Update or Water Quality Certification or if the septics will work. Shouldn't they get those approvals first? Mr. Doolittle offered they don't want to burden the Board by denuding the property with further testing only to find out something doesn't work and then burden the Board by having to come back. They could build a smaller house or move the septic fields. Mr. Doolittle felt the process and procedure they are following is common in Alpine.

Open to the Board for Questions. Chairman Glazer asked Mr. Vander Veer to comment on drains around the septic fields per SP-1 **[A-36]**. Alpine's code is more stringent but frequently allows deviations as long as there is, at a minimum, compliance with State code. State code permits interceptor drains less than 50 feet from the septic fields providing Applicant complies with certain provisions of N.J.A.C. regulating individual subsurface disposal systems. This has not been provided.

Ms. Ronan noted Alpine's obligation to build more affordable housing, perhaps where the tennis courts are. Mr. Doolittle offered the tennis courts are already impervious coverage. Although closer, some separation would be provided by the affordable housing septic fields; the lawn area behind their proposed house. The Borough would have to comply with RSIS to provide for no increase in runoff. In addition to the interceptor drain there are freshwater wetlands and something of a watercourse, intermittent stream or low area that creates the wetlands in that area. The applicant

needs to justify the setback between their disposal fields and any potential open watercourse. He confirmed a DEP application can be made at any time before, concurrent with or after a Board hearing. Applicant acknowledges they need to return to DEP. They've opted to come to this Board first.

Kevin Brody, AIA (still under oath from the May 16, 2013 meeting) explained calculations added to revised architectural plans **[A-39]**

Attic/Third Floor Question. Mr. Brody explained Section R-300 of the International Residential Code limits an attic. The area with 7 foot ceilings or above can be no more than 1/3 of the area of the floor below. Second floor gross is 4,809 square feet, 1/3 is 1,603 s.f. and proposed is 825 s.f with no fixed staircase, just a pull-down. They comply.

Roof Projection Heights Chimneys at 3' 10" above the roof ridge where 4 feet is max permitted. Added dimension from 2nd floor ceiling plate to ridge being 11'6", thus mean height is 5'9" above the plate or elevation 432.1. They comply.

Opened to the Board for Questions - Mr. Vander Veer noted prior plans were not dimensional. Mr. Brody clarified they did not have to lower the chimneys. He used autoCAD to scale and stipulated any approved plans for builder will be dimensional.

Opened to the Public for Questions – none

Karen Arendt, LA (still under oath from the May 16, 2013 meeting) explained landscape plan **[A-29]** revisions based on comments at the prior hearing:

- Clearing limit lines were changed slightly.
- Vegetation added to screen views of retaining wall for the southerly neighbor consisting of deer resistant cherry laurel evergreens that grow 4-5 feet high to provide year round coverage plus some rhododendrons and arborvitae.
- Vegetation added to screen views of their first story for the westerly neighbor consisting of dogwoods and cherry laurel evergreens along the edge of the woods that should grow 6 – 8 feet tall.

Opened to the Public for Questions – Mr. Herten questioned the proximity of the line of trees along the rear property line to the revised inlets and drainage pipe. Ms. Arendt offered the plant ball is about 3 feet in diameter and would be placed 2 feet off of the property line. The drainage grates and line are about 4 – 5 feet off the property line. Mr. Doolittle offered they can adjust where the line goes and place the inlets in between the plantings. There is room to fit both.

Opened to the Board for Questions – none

No further witnesses for Applicant. Mr. Herten invited to call witnesses for Opposition.

Jeffrey Morris, P.E., P.L.S., P.P. sworn and qualified¹ for professional engineering. Mr. Morris reviewed all revised plans and calculations on file prior to this meeting.

Wetlands Mr. Morris reviewed DEP exhibit **[A-32]** explaining a GP#6 permits fill up to one tenth of an acre requiring lesser burden of proof than an individual permit. The Concept Plan does not show required disturbances for proposed drains north of the septic field or south of the pool. SP-1 **[A-36]** shows the proposed Limit of Disturbance now extends about 720 s.f. beyond what was approved in 2010. As is, the concept plan shows 0.099 acres where DEP's letter permitted 0.09 acres. An additional 720 feet of filled wetlands will increase this to .111-.112 acres. This must be reduced or they will need an Individual Permit, a much more complex process. The Transitional Area Waiver is for wetlands on the subject property only. It should be noted that transitional areas of wetlands also exist on Borough property to the north and adjoining property to the south (Lot 9.04).

Septic Systems Substantial rock must be removed and permeability tests performed to determine if the fields will work. This has not been done yet. The interceptor drain is located about 20 feet from the septic fields, the minimum distance permitted under N.J.A.C. 7:9A. It violates the Borough code. Eight proofs are required to guarantee approval under N.J.A.C. 7:9A which includes wetlands and subsurface drainage in their definition for watercourses. The drain running north to south is 32 feet away from the disposal field and within 20 feet of a wetland. It is a closed system. DEP will exempt if specific provisions are made to the choke collars, a method used so water only flows through the pipe; the stone around the pipe cannot transmit any water.

Consistency Determination Mr. Morris is not sure this can be granted with construction in wetlands. It depends on the sewage authority whether BCUA or NWBUA. EPA guidelines govern. If not permitted they will have to go for a Water Quality Management Plan Amendment, a very complex process.

Drainage Overall drainage pattern flows northeast to southwest with a concentration between the pool and disposal fields; a low area wetland/water course that transmits water. The proposed plan creates a wall along the entire northerly property line between the garage, house, pool and a literal wall for the disposal fields. The applicant proposes a series of four inlets with a 12 inch pipe to capture substantial runoff from the north. Quick calculations indicate this pipe will drain about 2.7 cfs (cubic feet per second) under ideal conditions. His experience consistently finds

¹ Head of Private Land Development at Boswell Engineering. 33 years experience including municipal work in over 20 towns. Currently engineer for Closter Zoning Board and Fair Lawn Planning Board.

problems with 2 by 2 foot inlets next to a plant line. Mulch and pine needles will clog and he does not know if they're bermed. This problem is enhanced as construction will create a physical barrier whereby the only relief for the surface water will be to run northwest to the westerly property. The proposed will work during most rain storms but probably not for storms like the 3 heavy rains they had in just the past two weeks.

The retention system under the driveway has no positive outlet structure. As designed per SP-1 **[A-36]**, the 3 and 6 inch outlets cannot be accessed or maintained.

Soil Movement SM-1 [A-36]. Permit required. Removal of about 1,100 c.y. of rock will take 4-5 weeks of drilling and hammering depending on the number of machines. Cut and fill calculations assume 500 cy for export. He believes this number will be higher as the rock will not come out in small enough pieces to be used as the fine graded fill around the septic systems. It will have to be removed meaning additional dump trucks.

Open to Questions from the Board – Chairman Glazer questioned composition of the material to be hammered out. In his experience Mr. Morris offered probably 2 feet of weathered basalt and then harder as you go down. Removal becomes tedious.

Open to Questions from the Public – Upon questioning by Mr. Bell, Mr. Morris acknowledged

- If they don't obtain revised approval from DEP they cannot build.
- Removal of rock by drilling and hammering in Alpine is common; it takes some time but at some point it is done and the resultant disturbance is over.
- No variance is required for the westerly side yard setback adjoining Lot 9.03.
- After quick analysis of the rear drainage he believes the system is border line and should have a 15 inch pipe with 3 foot by 3 foot inlets. This is typically something the engineers for Applicant and Borough work out together in the field. He believes the town's drainage system is somewhat limited because it is relatively higher.
- The resident has no incentive to not maintain the system per the deed restriction, but neglect sometimes happens. In this case the impact is not to the owner, the problem is passed on.

Mr. Herten recalled Mr. Bell's question that no side yard variances impact the westerly neighbor. Mr. Morris noted the proposed still requires a steep slope variance for the driveway. He is concerned any breach of the proposed berm will cause major headaches and feels a smaller house would require less drilling and hammering.

Kathryn Gregory, P.P.² sworn and qualified as a professional planner. She's reviewed the file, transcript, Zoning Ordinance, Master Plan and made two site inspections. Per

² Planner for the Boroughs of Edgewater, Midland Park and Ridgefield and Clifton Zoning Board

SP-1 **[A-36]** Ms. Gregory notes property is relatively rectangular in shape and located in the R-AA zone with frontage on Robin Lane and Route 9W. Only a portion of the side of the lot fronts on Robin Lane. Applicant proposes a 12,000+ s.f. home with verandahs and accessory structures including pool, reflecting pool, outdoor kitchen, bath changing areas, and other out structures. Aerial View **[A-34]** depicts a series of single family homes plus Borough property to the north with 8 units of affordable housing and tennis courts. The most recent Master Plan slates 5 additional units for this site. Applicant requires 9 (c) or bulk variances. She reviewed criteria for c(1) and c(2) variances. The applicant also needs 8 waivers.

Variances:

1.	Front yard setback for the home 43.3 feet proposed; 60.0 feet required; 16.7 foot variance.	Ms. Gregory referred to Concept Plan [A-32] highlighting building envelope in yellow. Plan marked separately as [O-2] . The property is unique as front yard changes and building envelope widens where road bends and there is no longer frontage. The Concept Plan shows at least front of house could meet required setback. She fails to see justification for this variance. Aerial View [A-34] shows surrounding homes have larger setbacks than the proposed. Applicant provided no data if similar variances granted in the neighborhood. Their only justification was that proposed would be similar in size to other homes in the area.
2	Rear yard setback for the home 24 feet proposed; 60 feet required; 36 foot variance.	Concept Plan [O-2] shows rear yard setback of 30.59 feet which would at least meet a side yard setback requirement of 30 feet.
3	Rear yard setback for bath/change room: 6 feet proposed, 25 feet required for accessory structure; 19 foot variance.	Fails to see justification based on the pool being in the side yard. It is the size of the house and pool that makes the applicant feel he needs to place other accessory structures in rear yard. They could be located elsewhere on the property.
4.	Rear yard setback for outdoor kitchen / pergola 7 feet proposed; 25 feet required; 18 foot variance.	Fails to see justification for same reasons as above.
5.	Rear yard setback for sauna/pool equipment room	Fails to see justification for same reasons as above.
6.	Rear yard setback for the generator 22 feet proposed; 25 feet required; 3 foot variance	Fails to see justification for same reasons as above.
7.	Rear yard setback for the air conditioning units; 20 feet	Fails to see justification for same reasons above.

	proposed; 25 feet required; 5 foot variance	
8.	Pool proposed in the side yard where no accessory structures are permitted.	Could be smaller. Concept Plan shows bigger setbacks from property lines.
	Reflecting pool in the side yard where no accessory structure is permitted	Not sure if this constitutes an additional variance but on plan so she added to list .
9.	Steep slope disturbance for the driveway	Home does not need to be located where driveway violates steep slope disturbance. The steep slope ordinance includes section from 2002 Master Plan reiterating Borough's desire to protect environmentally sensitive features. [See §220-3.E.(1)(c)[2][b][iv]. This will also apply to the waivers.

Soil Moving Waivers – A waiver may be given if the literal enforcement of one or more of the provisions of the ordinance is impractical or will exact undue hardship because of peculiar conditions pertaining to the land in question.

1.	Fill five feet above grade (for the septic systems)	The location and size of the septic systems is driven by the location and size of the house. She did not hear any testimony regarding undue hardship
Seven waivers are required for construction/disturbance in the 15 foot tree buffer:		
2.	Retaining wall around the septic system	Fails to see justification for same reasons above. Again, she did not hear any testimony that proposed would exact undue hardship or be impractical. Although she understands there is a 200 foot buffer zone along Route 9W the lot is greatly oversized (66%) for the zone.
3.	Grading and wall construction	
4.	Drainage improvements	
5.	Bath/Change Room	
6.	Outdoor Kitchen/Pergola	
7.	Sauna/Pool Equipment	
8.	Circular driveway in front	

Ms. Gregory opines applicant's desire for a large home pushes for variances rather than trying to minimize relief by building a smaller home, pool and septic system. There seems to be a high number of variances and waivers for one single family home, considering how much emphasis Alpine's Master Plan/Zoning Ordinance places on protecting environmentally sensitive areas.

Applicant's engineer/planner testified the proposed advances MLUL purpose (e) *promoting the establishment of appropriate population densities*, but they did not complete that statement which reads “...and concentrations that will contribute to the well being of persons, neighborhoods, communities and regions and preservation of the environment.” She sees lots of environmental issues and challenges on this site

and a lot of 'hoop jumping' to get this built as proposed. She does not see how this promotes that purpose of the MLUL.

Applicant's engineer/planner also talked about promoting purpose (i) which talks about a desirable visual environment. While the proposed house has nice architecture the planner relied on the home's compatibility with others in the neighborhood without showing if homes required similar front and rear yard setback variances. The violations of the tree buffer also fail this purpose. A fifteen foot tree buffer is not a lot for a property this size. She particularly dislikes seven waivers for violations of the tree buffer.

As to the positive criteria, Ms. Gregory noted they only put forth the house would look like others in the neighborhood. She does not see any other positive criteria.

As to the negative criteria, with 9 variances and 8 waivers, she doesn't see how there is not substantial detriment to the public good. The Robin Lane Profile PS-1 of **[A-36]**, shows a lot of trees not always in season which will change the aesthetic value for the neighbor who will essentially look up at a three-story building. Applicant did not provide any perspective drawings for that view or the streetscape. She questions if the diminished front yard setback will really fit into the character of this neighborhood.

The proposed substantially impairs the intent and purpose of the Zoning Plan and Zoning Ordinance. The Alpine Master Plan states "*the Borough takes cognizance of the fact that there are numerous sites in the municipality that are typified by extensive environmentally sensitive features and therefore may not be able to accommodate its full zoned development potential.*" The site has great environmental sensitivities and the applicant did not really address the Zoning Ordinance and Master Plan. A smaller house could diminish variances and still address the intent of the Plan and Ordinance.

The Borough property could be developed with more affordable housing at some point in time potentially diminishing the rear buffer; that is not really a justification either. While not single family housing, people who live there are Alpine residents, too.

The Concept Plan demonstrates a smaller home could be built. As a professional planner she opines the variances and waivers should be denied. Only a rear yard variance for the home has some rationale, not because of shallowness of the property but based on configuration and having two frontages. The building envelope is 16 feet near the steep slopes but opens up as shown by the house on the Concept Plan.

Opened to the Public for Questions

Responding to questions from Mr. Bell, Ms. Gregory has never testified in Alpine but is familiar, from work in other towns, with the give and take between Applicant's and

Borough's engineers on similar projects. She affirmed narrowness can be a hardship. When asked if she did not regard this site as excessively narrow considering buildability within Alpine's permitted setback, Ms. Gregory replied yes.

Mr. Bell reviewed constraints of the 200 foot buffer zone, wetlands, and steep slopes to ask if the home isn't proposed for the only part of the property you can build on. Ms. Gregory replied yes, but it is buildable. Mr. Bell asked if it could be built without variance. Ms. Gregory replied not as shown; rear yard setback relief would be needed. She recalled her prior testimony that the Concept Plan depicted a house that met the front yard setback and at least met a side yard setback for the rear yard, actually meeting an intent where the proposed does not.

Mr. Bell questioned if neighboring homes have irregular shaped lots whereupon Chairman Glazer asked him to focus on the subject lot. Mr. Bell explained compatibility is relevant. He asked if it's not true, looking at the aerial map, you can't really see a significant variation in front yard setbacks because of Robin Lane's configuration. Ms. Gregory disagreed.

Mr. Bell recalled applicant's engineer/planner testified the steep slope variance is negligible, the calculation questionable and may not even exist. Most of the relief pertains to accessory structures and you need air conditioners. Ms. Gregory affirmed. He asked where else other accessory structures could go. Ms. Gregory offered by reducing the size of the house and pool they would fit on the east side of the pool. Ms. Gregory conceded property is unique relative to shape and constraints and would require variance relief to be developed consistent with what's typically built in Alpine.

Open to the Board for Questions - None

Open to the Public for Comments

Karen Helf, 28 Robin Lane, (adjoining westerly neighbor Lot 9.03) was sworn. She and her husband, Steven, have lived here 33 years and spent \$43,000 repairing damage, removing damaged trees and making drainage improvements necessitated by changes in stormwater runoff during construction of the affordable housing septic systems. Water and brown material cascades down the steep slope from that property as well as the subject property. A small drain on Robin Lane constantly clogs causing winter icing. Runoff from the Bobotis property has flooded their driveway. Hammering will risk cracking their foundation and pool. The proposed will reduce the value of their home. Like neighboring towns, she expects Alpine to protect neighbors from wetlands problems and reject the plans. People have looked at the property but it has never been developed for numerous reasons: wetlands, massive rock outcroppings, lack of drainage and a natural attraction of lightning due to elevation.

Mr. Bell asked if they heard testimony that proposed construction would result in less runoff to their property and would therefore be an enhancement to the drainage conditions that exist in the area. Ms. Helf stated she did hear that testimony.

Lou Tolerico, 67 Robin Lane, was sworn. Mr. Tolerico is the owner of the property and disagreed with Mrs. Helf stating he had made no attempt to develop since 1997. The Board deemed these comments irrelevant. Mr. Tolerico noted any development has to reduce runoff from the site and will help the Helf's lot with drainage from this lot.

Summations

Mr. Herten offered there's a concept of putting ten pounds of stuff in a five pound bag and this is trying to fit twenty pounds of stuff in a five pound bag.

Mr. Bell stated they tried to figure the best way to accommodate the applicant's desires for a nice family home with the severe constraints of the property. Access from Route 9W would be more detrimental and they have limited frontage on Robin Lane. Nine variances seem a lot but in reality could be considered one rear yard variance. Anyone can say you could build a smaller home but where is the cutoff. The proposed house is not very deep. They opted to push the house further back where, even if the Borough further develops their property, a substantial gap will still exist. The Board must consider the constraints and the compatibility of the proposed design with other homes in the area; a justification supported by case law and common sense. He cited two cases Lang vs. Zoning Board of Adjustment [160 N.J. 41(1999)] and Bressman v. Gash 131 N.J. 517 , 530-31 (1993)], where the NJ Supreme Court upheld variances, one for a pool and one for a rear yard, finding there were constraints on the property, the pool and home could not be built without a variance and the proposed were compatible and similar to those built in the area. In this case the front yard is substantial enough after factoring in distance to the front property line, road, and curvature of Robin Lane. Practical reality is that the front and rear yard setback variances will not really impact anyone and the house will be similar to the neighborhood. The applicant tried to work with the neighbor and severely reduced the steep slope encroachment. The proposed drainage will be significantly better than existing. They know any approval is contingent upon satisfying the DEP and Borough Engineer. Other than that it sounds like the neighbors just want somebody else to pay for a park next door; that's not the way it works. Property owners have rights and if nothing can ever be built on the property because the Board won't grant any variances they will effectively zone it into inutility. He feels they've made a legitimate attempt to accommodate all concerns and asks they grant the relief.

Mr. Shadek understands hardship but there are too many questions/outstanding issues.

Ms. Ronan does not think it is fair to say that the rear yard setback can be just anything and has no effect on the people who live there now or may come to live there. They don't know if or where the town will build more units. Neither is she persuaded that the front yard setback is meaningless. While there is probably a need from some variance relief to be appropriately developed it does not have to be as extensive as proposed. There is a lot of disregard for the zoning code that doesn't need to be part of the project that will eventually be developed on this site.

Chairman Glazer agrees the plan as submitted is certainly different from the original Concept Plan which would require less onerous variance relief. Mr. Glazer clarified his earlier comment about comparability was not based on whether homes were compatible but that their decision would not be based on whether other homes had been granted similar variances. Mr. Ellis agreed compatibility is taken into account.

Mr. Barbieri agrees they are trying to put a five pound house in a two pound bag.

Resolution Upon a motion by Ms. Ronan seconded by Mr. Barbieri at this regular meeting of the Alpine Zoning Board of Adjustment held on Thursday, June 20, 2013 to deny the application of Charles Luk for Block 39, Lot 8 on Robin Lane. Yes is to deny.

Vote: Ayes: Shadek, Cohen, Clores, Ronan, Barbieri, Glazer

MOTION CARRIED

PROCEDURAL MOTIONS

Resolution: Approval of Minutes: Regular Meeting May 16, 2013 Upon a motion by Ms. Ronan, 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 Thursday, June 20, 2013 to approve the minutes of the regular meeting held on May 16, 2013.

MOTION CARRIED

Resolution: Approval of Bills and Claims Upon a motion by Mr. Shadek, seconded by Mr. Cohen and approved by all those eligible to vote at the regular meeting of the Alpine Zoning Board of Adjustment held on Thursday, June 20, 2013 to approve the following Bills and Claims:

North Jersey Media Group	Edwards 121/6	Inv. 3499908	17.95
North Jersey Media Group	Edwards 121/7	Inv. 3498509	18.90
Azzolina & Feury	Edwards 121/6	Inv. 59816	53.50
Azzolina & Feury	Edwards 121/7	Inv. 59814	53.50
Azzolina & Feury	Luk 39/8	Inv. 59820	508.25
Azzolina & Feury	Nadjafian 72/3	Inv. 59824	53.50

MOTION CARRIED

COMMUNICATIONS None

ADJOURNMENT at 10:33 p.m. upon motion by Mr. Shadek, seconded by Mr. Clores, and approved by all.

Respectfully submitted,
Nancy Wehmann, Secretary