

**ALPINE ZONING BOARD OF ADJUSTMENT**

Regular Meeting

Thursday, October 17, 2019 - 7:30 P.M.

(This meeting was taped in its entirety).

**CALL TO ORDER/PLEDGE OF ALLEGIANCE/PUBLIC ANNOUNCEMENT**

This meeting of the Alpine Zoning Board of Adjustment was called to order by Chairman Glazer at 7:33 p.m., Thursday, October 17, 2019 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, October 17, 2019 has met the requirements of the law by being published in The Record on January 4, 2019 and posted on the bulletin board in the lobby of the Borough Hall and a copy filed in the office of the Borough Clerk.*

**OATH OF OFFICE:** Richard Bonhomme was sworn in by Mayor Tomasko as member for the unexpired portion of a four-year term expiring December 31, 2019. Mr. Bonhomme thanked the Mayor and Board for all of their support during the time he needed to be absent from the Board. The Mayor and Chairman Glazer thanked Mr. Bonhomme for again volunteering his service.

**ROLL CALL:** Present: Anthony Barbieri, Richard Bonhomme, Steve Cohen, Richard Glazer, David Kupferschmid, Elizabeth Herries (Alt.II),  
Absent: Tony Clores, Jeffrey Mayer, George Abad, Jr. (Alt I),

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

**COMMUNICATIONS:**

Azzolina & Feury 8/29/2019 re: Kim 18 Overlook Block 75 Lot 9 – Project Update  
Azzolina & Feury 9/9/2019 re: Lin 34 DuBois Ave Block 40 Lot 5 – Plan Review

**MEMORIALIZATIONS:** None

**PROCEDURAL MOTIONS**

**Resolution: Approval of Minutes:** Regular Meeting July 18, 2019 Approved upon a motion by Mr. Barbieri, seconded by Ms. Herries and approved by all those eligible to vote.

**Resolution: Approval of Bills and Claims** Upon a motion by Mr. Kupferschmid, seconded by Mr. Bonhomme at the regular meeting of the Alpine Zoning Board of Adjustment held on October 17, 2019 to approve the following Bills and Claims:

North Jersey Media Group	Mourkakos 49.01/1	Inv. 4345531	\$16.50
Azzolina & Feury Eng., Inc.	Edwards 121/7	Inv. 72121	\$70.00
Azzolina & Feury Eng., Inc.	McCourty 121/6	Inv. 71121	\$70.00

**Vote: Ayes:** Mr. Barbieri, Mr. Bonhomme, Mr. Cohen, Mr. Glazer, Ms. Herries, Mr. Kupferschmid

**MOTION APPROVED**

**Resolution: Return of Escrow** Upon a motion by Mr. Cohen, 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, October 19, 2019 to return the following escrow which have been reviewed and approved by the Board Attorney and Borough Engineer.

Livingston Property Management, LLC for Mourkakos Trust AC 70190	Block 49.01 Lot 1 457 Hillside Avenue	Resolution 7/18/2019	\$26.50
Hillcorp, Inc. for 910 Closter Dock Rd LLC Trust AC 70191	Block 55 Lot 20&21 906/910 Closter Dock Rd	Resolution 5/16/2019	\$1,044.15

Jacques P. Minoyan Trust AC 70192	Block 60 Lot 10 47 Forest Street	Resolution 5/16/2019	\$1,229.35
Leon Garabet Trust AC 70193	Block 47 Lot 1 987 Closter Dock Road	Resolution 6/20/2019	\$244.35

**Vote: Ayes:** Mr. Barbieri, Mr. Bonhomme, Mr. Cohen, Mr. Glazer, Ms. Herries, Mr. Kupferschmid  
**MOTION APPROVED**

## HEARINGS

**McCaffrey Block 42 Lot 4 – 1010 Closter Dock Road** - Rescheduled to January 16, 2020  
Appellant's Attorney, Matthew G. Capizzi, Esq. of Capizzi Law Offices, 11 Hillside Avenue, Second Floor, Tenafly, NJ 07670, requested this matter be carried to the January meeting. The Board discussed and without objection consented to Thursday, January 16, 2020 (Board's usual third Thursday meeting date). Applicant's counsel will re-notice for that meeting.

**Garcia Block 49 Lot 33 – 11 Rionda Court**  
Matthew G. Capizzi, Esq. of Capizzi Law Offices, 11 Hillside Avenue, Second Floor, Tenafly, NJ 07670 appeared with and on behalf of the applicant Sandra Garcia and husband, Leopoldo Garcia and their engineer, Michael Hubschman PE, PP of Hubschman Engineering, P.A., 263 S. Washington Avenue, Bergenfield, NJ 07621.

Neighbors appearing were Lynne and Martin Zaikov of 15 Rionda Court and Ira and Shelley Taub of 7 Rionda Court. Mr. Taub brought counsel, Jordan Yuelys, Esq. 505 Main Street Hackensack, NJ. It was noted no neighbors attended the 2018 hearing.

Attorney Capizzi reviewed. The Board heard this application March 2018 and adopted a resolution May 2018 approving a pool and patio. For various but undisclosed reasons the applicant did not apply for the permit prior to the one-year expiration date. They now seek an extension. The property, located at the end of the Rionda Court cul-de-sac, is unusually shaped and constrained by access easements to other properties. The home faces an eastern easement rather than the street thus the yard opposite the front door was designated as a side yard. Pool location is also constrained by location of septic systems. As approved the pool design was modified but still required variances for a 15-foot setback for a portion. They eliminated a waiver on the west side for disturbance of the tree buffer but were granted a waiver for a two-foot wall seven feet from the property line on the south side of the pool. There have been no changes to the neighborhood, zoning ordinances or master plan.

Attorney Kates clarified and Mr. Capizzi acknowledged this is a do over and not an extension as the prior approval expired. Attorney Kates asked if they were seeking an interpretation as advertised which would be like res judicata. Attorney Capizzi replied no they are seeking the variances based upon the zoning officer's interpretation the pool is in a side yard.

As neighbors and their counsel had stepped out there was a brief recess 7:48-7:52 to call any interested persons back into the room.

The following exhibits were

- A – 1 Proof of Publication on in The Record on October 4, 2019.
- A – 2 Certified Mailing to Residents within 200' on October 2, 2019 per Tax Assessor's List dated September 26, 2019
- A – 3 Letter of explanation from Matthew Capizzi dated October 3, 2019
- A – 4 Proof of payment of Taxes dated 9/26/2019
- A – 5 Prior Zoning Board Resolution dated May 17, 2018.

A – 6 Pool Plan signed and sealed by Michael J. Hubschman, PE, PP dated February 13, 2017 last revised March 27, 2018 #4 annotated “Board Hearing and AF Letter 3-8-2018”

And during the course of these proceedings:

A – 7 Colorized version of A-6

A – 8 Photos P5 & P6 prepared by Michael J. Hubschman, PE, PP dated October 19, 2019

A – 9 Aerial Map prepared by Michael J. Hubschman, PE, PP dated March 14, 2018<sup>1</sup>

Michael Hubschman was sworn and qualified as an expert in the fields of professional engineering and planning. Using **Exhibit A-7**, Mr. Hubschman reviewed this 45,339 square foot (sf) lot in the Glen Goin development has a very irregular shape. The home is oriented facing the access easement. The rear of the home is a side yard when viewed from Rionda Court. They propose a pool, patio and some stepping stone pavers to the rear of the home. The original application proposed an 11-foot setback and retaining wall in the side yard. The prior approved resolution required they increase the setback to 15 feet, reducing the size of the pool and remove a wall and regrade the area. The existing septic field is directly behind the house and requires a 20-foot setback to the pool. The second septic field takes up the rear yard area to the north (side of the house). Variances are needed for the pool in a side yard with a 15-foot setback and improved coverage overage of 1,092 s.f. due to the shared driveways taking up 2,374 s.f. The property slopes up behind the pool location. The pool is 20-foot-wide by 32 foot wide minus a small cut out. Pool location is dictated by the home’s orientation and the existing septic fields. Seepage pits and catch basins are proposed for drainage. Regarding impact to the southerly neighbor, Mr. Hubschman noted their driveway and a basketball court are located on that side and their property is 6 – 8 feet higher. 17% or 125 square feet of the pool would be less than 20 feet (15 feet) from the property line. 83% conforms. Photos were distributed and marked **Exhibit A-8** to show views of the proposed pool location. The pool will be a little below grade but this will not pose a problem for runoff into the pool. Recreational activities are permitted in that area but they need a variance for the pool as an accessory structure. There’s not much difference between 15 feet or 20 feet as relates to noise attenuation.

The hearing was opened for questions of the engineer.

**Attorney Yuelys** noted Mr. Taub’s property is to the immediate left of the applicants. He questioned enforcing the setback for the pool. Mr. Hubschman explained they’d have to shave off 125sf reducing the pool and spa from 715sf to 590sf. Mr. Yuelys asked why pools are restricted in side yards. Mr. Hubschman opined for visual streetscape but this lot is irregular. Mr. Yuelys asked for a plan showing structures on adjacent properties. Mr. Hubschman offered an aerial map [**marked A-9**] which shows the southerly neighbors’ garages, driveway and basketball court near the common property line. The pool would be about 45 feet from the neighbor’s house; 50 feet without the variance. Mr. Yuelys questioned the corner patio which would also have to be pushed back to conform. That area will be disturbed to install the seepage pits as there is no other location for them due to the septic fields. There is no more wall proposed there. Supplemental plantings for the neighbor’s benefit would be planted along the bermed hill in the back. They did not prepare a detailed landscape plan but he anticipates buffer plantings such as evergreens. The yard would be fenced.

The hearing was opened for questions from the Board.

Richard Bonhomme questioned the fence marked to be relocated. Mr. Hubschman noted the existing fence has been removed and the fence to be installed will comply with pool safety requirements.

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<sup>1</sup> Mr. Hubschman clarified he printed the image out today and the date was when it was taken.

Ms. Herries questioned coverage relative to the amount of additional patio being added. Did they think of reducing that to lessen the variance? Mr. Hubschman offered the width is only 12 feet around the pool with the remainder stepping stones for access.

Mr. Kupferschmid asked if this was the plan the Board previously approved? Attorney Capizzi affirmed.

The hearing was opened to the public for comments.

**Lynne Zaikov, 15 Rionda Court**, was sworn and lives to the west of the proposed pool area and showed where her patio is. They don't want to be bad neighbors, but the pool and patio would be very close to their property line. They spend a lot of time on their patio and are concerned with noise and drainage as their property is lower. She asked they buffer noise with a vegetative berm and move the patio to the opposite side. Mr. Hubschman explained the patio on their side is compliant. They are amenable to planting a 2-3 foot berm with 6-8 foot evergreens. Mrs. Zaikov insisted the patio be moved due to the noise that would be generated by tables, chairs, etc. only ten feet from her property line. Mr. Kupferschmid noted the applicant has a right to use that space now for recreational activities that can generate noise. Mr. Glazer hoped the neighbors can come to an agreeable solution.

**Martin Zaikov, 15 Rionda Court**, was sworn and explained the reason they didn't attend the initial hearing was based on the notice. They assumed the pool was going to be in the side yard which they took to mean the side of the house and closer to the access road. They didn't realize the pool was going to be at the rear of the house. That makes a big difference. Mr. Hubschman clarified they're constrained by the septic systems. For safety reasons you would not want a pool on the side of the house or near the easements where it couldn't be viewed from the house.

Mr. Bonhomme questioned lighting. Mr. Kupferschmid did not think that's an issue as it is for a tennis court. Mr. Cohen questioned setbacks from the septic field. Mr. Hubschman offered 20 feet for a pool but 5 feet for the patio. They excavated the corners of the field and the pool is shown at 22.92 square feet to leave a cushion but they'll try to inch it as close as possible.

**Ira Taub, 7 Rionda Court**, was sworn and identified his property to the south. Answering questions posed by Attorney Yuelys he described his garage has two bedrooms on the second floor which is near that property line as identified on the photo **[A-8]**. He has wonderful neighbors but wants a quiet environment. They should have a pool if it complies with the setback. He's concerned with noise, quality of life and potential devaluation of his property if the pool and patio are too close. He never anticipated someone would build so close. He too would like them to move the corner patio and provide plantings to insulate his house from their noise and potentially lighting. He pointed out the berms, bushes and trees that he planted throughout the years. He would want more than what's currently there. Best case would be to put the pool on the other side. Like Mr. Zaikov he originally thought that was the area they meant by "side yard" and did not think the relief was clear from the notice to residents **[A-2]**. He thought to question it this time and Attorney Capizzi was kind enough to provide him with a copy of the plan. Mr. Yuelys pointed out the public notice **[A-2]** which Mr. Taub affirmed did not make it clear to him which yard the pool was in or how many feet were involved in the setback variances.

Attorney Kate asked Mr. Taub to clarify his plantings on photos **[A-8]**. Mr. Taub identified trees and plantings he installed stating it is a zig-zaggy property line and he's filled in his side to the best of his ability. Mr. Kupferschmid noted the plan depicts a straight property line. Mr. Kates questioned what type of landscaping could have more of an effect than what is already shown. Attorney Yuelys noted the photos are taken in summer in full leaf. An area in the middle depicts bushes but no trees for height. Bushes would not be sufficient to absorb the sound. Mr.

Hubschman offered they will stake the property line and the pool location. Some of the berm and bushes may be on the applicant's property. Attorney Kates asked if the Board is seeking a landscape plan. Attorney Capizzi noted it is their intent to provide supplemental landscaping as a condition of approval regardless of the neighbor's position. They can work with Mr. Frenzel and provide a plan for his review and approval. The infilling is nominal and uncomplicated consisting of 2-3 feet berms and 6 – 8 feet arborvitae. Mr. Yuelys requested a landscaping plan. Mr. Capizzi countered the supplementation will occur regardless. Mr. Yuelys questioned elevation of the Taub property. Mr. Hubschman offered six feet higher than the pool area. They'd be planting up the slope. Mr. Cohen questioned spacing. Mr. Hubschman stated typically they use Green Giant arborvitae 6 – 8 feet apart which would create a full screen within 1-2 years. Ms. Herries noted a proposed amendment to the tree ordinance seeks to have different kinds of trees and staggered rather than a straight line of pines. Mr. Hubschman stated they're trying to create a buffer not a woodland. Mr. Taub stated he would prefer a natural look. Mr. Taub preferred they reduce or eliminate the patio at the top corner. Discussion ensued regarding feasibility of moving the corner patio and alternate locations.

8:52 PM – 9:15 PM Chairman Glazer called a recess to allow the applicant and neighbors and their respective counsel and experts to discuss their issues and try and reach an accommodation.

Upon their return, Mr. Hubschman explained they will remove the 16 x 14-foot patio in the corner and reconstruct a patio area on the opposite side by the spa replacing the steeping stones and keeping the patio within the setback. The pool location remains. They further stipulate to 3-foot berms off existing grades and 6 – 8 foot trees to provide aesthetically pleasing screening.

Mr. Taub offered they are sorry they are inconveniencing the applicants but was glad they could come to an agreement which is how neighbors should be.

**Resolution:** Upon a motion by Mr. Cohen, seconded by Mr. Bonhomme to approve the application as modified.

**Vote: Ayes:** Mr. Barbieri, Mr. Bonhomme, Mr. Cohen, Mr. Glazer, Ms. Herries, Mr. Kupferschmid

**OTHER BUSINESS** Chairman Glazer will be honored at the Mayor and Council meeting Wednesday, October 23, 2019 as Alpine's Volunteer of the Year in grateful recognition of his service on the Zoning Board of Adjustment.

**ADJOURNMENT** at 9:22 p.m. upon motion by Mr. Cohen seconded by Mr. Barbieri and approved by all.

Respectfully submitted,

Nancy Wehmann, Secretary