

ALPINE ZONING BOARD OF ADJUSTMENT

Special Meeting

Tuesday, March 29, 2022 - 7:30 P.M.

(This meeting was held in person and taped in its entirety).

CALL TO ORDER/PLEDGE OF ALLEGIANCE/PUBLIC ANNOUNCEMENT

This special meeting of the Alpine Zoning Board of Adjustment was called to order by Chairman Glazer at 7:31 p.m., Tuesday, March 29, 2022 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 special meeting held Tuesday, March 29, 2022 has met the requirements of the law by means of the date and time being e-mailed to The Record and faxed to The Suburbanite on February 28, 2022, and published in The Record on March 7, 2022, along with the agenda posted on the bulletin board of the lobby in Borough Hall, and on the Borough website (<http://www.alpinenj07620.org/id25.html>) along with applications, if any, for matters to be heard this evening, and a copy filed in the office of the Borough Clerk and Board Secretary. Instructions for how the public can participate and access the meeting and documents has been included in the posted agenda.

ROLL CALL (quorum checked)

Richard Glazer (Chairman)	Present	Tony Clores (Vice-Chairman)	Absent
David Kupferschmid	Present	Richard Bonhomme	Absent
Anthony Barbieri	Present	George Abad, Jr	Present
Elizabeth Herries	Present	Amy Lerner, Alt I	Absent

Staff Present: Attorney Michael Kates, Borough Engineer Perry Frenzel, Board Secretary Jo Anna Myung

COMMUNICATIONS None.

MEMORIALIZATION None.

PROCEDURAL MOTIONS

RESOLUTION: Approval of Minutes from the Regular Meeting on Thursday, February 17, 2022 by Mr. Kupferschmid, seconded by Mr. Abad and approved by all those eligible and present to vote.

Vote: Ayes: Mr. Abad, Mr. Barbieri, Ms. Herries, Mr. Kupferschmid, Mr. Glazer

Absent: Mr. Bonhomme, Mr. Clores

MOTION APPROVED

RESOLUTION: Approval of Bills and Claims Upon a motion by Mr. Barbieri, seconded by Mr. Abad at the Regular Meeting of the Alpine Zoning Board of Adjustment held on Tuesday, March 29, 2022 to approve the following Bills and Claims:

North Jersey Media	ZBA Special Mtg Notice 55/3.03	Inv. 5154352	\$13.95
Azzolina & Feury Eng., Inc.	55/3.03, 79 Miles St	Inv. 75650	\$177.00
Azzolina & Feury Eng., Inc.	48/1.01, 1003 CDR	Inv. 75641	\$177.00

Vote: Ayes: Mr. Abad, Mr. Barbieri, Ms. Herries, Mr. Kupferschmid, Mr. Glazer

Absent: Mr. Bonhomme, Mr. Clores

MOTION APPROVED

HEARING

LUCACEL: 79 Miles Street, Block 55 Lot 3.03

Hearing timeline carried from 1/20/2022, 2/17/2022, Special Meeting on 3/29/2022:

- **1/20/2022** Due to technical difficulties and lateness of the hour, Attorney Matthew G. Capizzi, Esq. agreed to carry this hearing to next month's meeting on February 17, 2022 without need for further notice.
- **2/10/2022** Attorney Matthew G. Capizzi, Esq. requested to carry this hearing to the next regularly scheduled meeting on March 17, 2022 without need for further notice.
- **2/11/2022** Mr. Capizzi's office inquired about a Special Meeting for Lucacel to be heard. Board requested a written Special Meeting request to be submitted for approval.
- **2/17/2022** Motion to carry by Mr. Cohen, seconded by Mr. Bonhomme for this applicant to be heard at the next regularly scheduled zoning board meeting on March 17, 2022 without further need to notice.
- **2/25/2022** Attorney Matthew G. Capizzi, Esq. provided formal request to hold a Special Meeting on March 29, 2022 due to schedule conflicts.
- **3/3/2022** Quorum checked and request for Special Meeting approved.
- **3/7/2022** Publication of cancellation notice of the regularly scheduled March 17, 2022 meeting and Special Meeting scheduled for Tuesday, March 29, 2022.

Attorney for the Applicant: Attorney Matthew G. Capizzi, Esq. 11 Hillside Avenue 2nd Floor, Tenafly, NJ 07670 appeared on behalf and with Applicants Florin and Carla Lucacel.

Attorney Capizzi thanked the Board for adjusting their schedule to accommodate for this Special Meeting.

These minutes have been approved by the Zoning Board of Adjustment at the regular April 21, 2022 meeting.

Applicant's Attorney Matthew Capizzi explained that the applicant's home on 79 Miles Street at the end of the Miles Street cul-de-sac is located in the R-1 zone; which is one of two lots on the entire block on Miles Street in the R-1 Zone. The balance of all the other developments on Miles Street is in the R-3 Zone. The significance of this is that R-3 zone provides for a 20 foot front yard setback, and R-1 zone requires a 60-foot front yard setback. The setbacks generated by the half circle "bulb" in the cul-de-sac, along with easements given to handle stormwater management on Miles Street, and the buffering requirement easement given to Alpine Country Club on the lot leaves a constrained building envelope.

This application is for a variance for a deficient front yard setback. Applicants are proposing a 50-foot front yard variance, as well as needing soil movement waivers and design for retaining walls supporting septic fields; which Mr. Capizzi asserted represents a better planning alternative, in keeping with home setbacks in the neighborhood. The house directly opposite and also in the R-1 Zone received a variance to have front yard setback of 50 feet.

The following exhibits were received and marked for tonight's meeting:

- A – 1 Proof of Publication in The Record January 9, 2022; **updated Proof of Publication – Notice of Special Public Hearing published on 3/11/2022**, received 3/21/2022;
- A – 2 Certified Mailing to Residents within 200' on January 7, 2022 per Tax Assessor's List dated December 16, 2021; Tax Assessor's List dated 3/9/2022 (**certified mailing resent on 3/8/2022 base off December; 16, 2021 list but no changes between 3/9/2022 and 12/16/2021 lists** – ok per MK)
- A – 3 Application received December 17, 2021 signed and dated December 16, 2021 with attachments:
 - o Proposals and Reasons for Relief;
 - o Tax Collector's Proof Statement property taxes paid through December 13, 2022; and
 - o 200' Property Owners list dated December 16, 2021;
- A – 4 Borough Engineer's review letters dated February 25, 2019; **updated January 4, 2022**;
- A – 5 Photo Exhibit – One (1) color photo (not dated or signed);
- A – 6 Prior Resolution: Planning Board March 26, 2019;
- A – 7 Engineering Plans, signed and sealed by Michael J. Hubschman, PE PP, consisting of six pages dated August 11, 2021 with revisions, if applicable, as noted:
 - o Dwg. No. 3953-1 titled "Site Plan" Rev. 2, 1/6/2022;
 - o Dwg No. 3953-2 titled "Soil Erosion & Sediment Control Plan; Details" Rev. 1 9/29/2021;
 - o Dwg No. 3953-3 titled "Existing Conditions Plan";
 - o Dwg No. 3953-5 titled "Cross Sections & Soil Moving Plan Section 0+00 (N) to 1+47 (N)";
 - o Dwg No. 3953-6 titled "Cross Sections & Soil Moving Plan Section 0+54 (S) to 0+97 (N)"; and
 - o Dwg No. 3953-7 titled "Cross Sections & Soil Moving Plan Section 1+11 (S) to 1+90.5(S);
- A – 8 Architectural Plans, signed and sealed by Noah Harris Adler, AIA, dated September 2, 2021 consisting of eight pages:
 - o Sheet No. T-100 titled "Title Sheet, Zoning Analysis, Drawing Index";
 - o Sheet No. G-100 titled "General Notes, Symbols, and Abbreviations";
 - o Sheet No. A-100 titled "Basement Construction Plan";
 - o Sheet No. A-101 titled "1st Floor Construction Plan";
 - o Sheet No. A-102 titled "2nd Floor Construction Plan";
 - o Sheet No. A-103 titled "Attic / Roof Construction Plan";
 - o Sheet No. A-201 titled "Front and Right-Side Elevations"; and
 - o Sheet No. A-202 titled "Rear and Left Side Elevations";
- A – 9 Application for Soil Moving Permit (signed but not dated);
- A – 10 Soil Moving Report prepared by Michael J. Hubschman, PE PP, dated October 12, 2021;
- A – 11 Drainage Report prepared by Michael J. Hubschman, PE PP dated August 11, 2021;
- A – 12 Dwg. No. 3953-1 titled "Site Plan" Rev. 2 1/6/2022 previously submitted as part of Exhibit A – 7, but plan presented during meeting is colorized;
- A – 13 Dwg No. 3953-8 titled "Setback Sketch" dated 1/18/2022; and
- A – 14 Deed of Easement dated 3/15/2022 between the Applicants and Alpine Country Club.

Applicant's Engineer: Michael J. Hubschman, P.E., P.P. of Hubschman Engineering, P.A., 263A South Washington Avenue, Bergenfield, NJ 07621

Michael Hubschman PE, PP was sworn and, having testified numerous times before this Board, he was deemed qualified as an expert testimony in engineering and planning.

Mr. Hubschman provided an overview of the applicant's property boundaries on 79 Miles Street; this property is located on the westerly end of Miles Street in a R-1 Zone.

The zone line is on the east with Alpine Country Club on the west and smaller homes zones with narrower (approx. 50-60 feet wide front yards) lots along Miles Street up to Church Street in a R-3 Zone. R-3 Zone only requires a 20-foot

front yard setback. The cul-de-sac "bulb" takes up about 25 feet. The lot across the street is also a R-1 Zone and received a 50-foot setback variance approximately 20 years ago. This proposal is for a slightly over-sized 40,990 square foot single-family home and the variance for a deficient front yard would be keeping in line with developments like the house directly across the street, and the rest of the houses in the neighborhood on Miles Street.

Stormwater drainage has flooded the lot in the past, flowing diagonally across the property into Alpine Country Club, which the Country Club has tolerated for many years without addressing the problem. As part of the sub-division approval, the Applicants are actually installing a drainage line to be dedicated to the Borough and working with the Borough Engineer to design it. There is a drainage easement that will allow stormwater run-off to properly discharge into an improved catch basin.

Due to the grading of the site, a waiver is required to construct septic systems west of the property with two 5-foot walls and tree buffers facing Alpine Country Club.

Chairman Glazer inquired about lengths in the tree buffer and the separation between one wall to another.

Mr. Hubschman responded stating it is 135 feet, the upper wall being 80 feet with a 10-foot separation between them.

Board Attorney Michael Kates asked if they will plant in between them. **Mr. Hubschman** confirmed and that Alpine Country Club has a planting easement in the triangular area which they control. **Mr. Hubschman** further explained that the bottom wall turns toward the east and the upper 5 feet of wall comes closer together, with an exposed 5-foot upper wall. The front wall is more of a veneer and there is a 10-foot minimum offset area which is suitable for planting with the westerly wall designed for septic systems.

Member Kupferschmid asked if there was another easement on the east side for the benefit of houses in the R-3 Zone. **Mr. Hubschman** confirmed stating that the Alpine Country Club had given the neighbor at 84 Miles Street (Lot 1) a maintenance easement. **Mr. Capizzi** interjected that when Mr. Lucacel took ownership of the property, he was in a position to cancel the 10-foot access easement but he is extending it to that neighbor as courtesy to allow access to their septic system and to undertake any necessary maintenance of the system, their home being on the westerly side of the property line.

Mr. Hubschman listed several hardships placed on the Lucacel property relating to easements, slope of the property, drainage and setback issues, and introduced "**Exhibit A - 13**" titled "**Setback Sketch**". Regarding the footprint of the house in violation of the setback, he asserted that there is approximately 6.8% or 1,007 square feet encroaching and in violation; but is 6% at a setback distance from 60 feet to 50 feet. Most of the houses on Miles Street have approximately 20 feet to 50 feet setbacks. Some of the houses set back further have septic systems in the front yard. The subject lot is at the end of the cul-de-sac and proposing a 50-foot setback that is in line with existing homes on Miles Street. The proposed two-story house has a small rear yard and the west side of the house is a walk-out basement, with no negative impact on the streetscape. Further, the height of the proposed house at the front elevation is only 26 feet; whereas the R-1 Zone allows 35 feet. So, he asserts, there are no detriments.

Mr. Hubschman also stated that there are two Borough Engineering review letters and applicant accepts all of Mr. Frenzel's recommendations, some of which have already been addressed.

Open to the public for comments. There were none.

Open to the Board for comments.

Mr. Michael Kates asked for an explanation about the March 15, 2022 Deed of Easement between Alpine Country Club and the applicants. The Planning Board granted a sub-division [**Exhibit A - 6**] to Alpine Country Club and required this kind of accommodation regarding a drainage easement. **Mr. Capizzi** answered that it is a new and private easement prepared by his office, using Mr. Hubschman's legal description, and he explained that stormwater is being drained from the municipal roadway and discharging it to a private system on Alpine Country Club, whereas there is presently no easement favoring or dealing with stormwater accumulations in the public right-of-way. Further, the drainage system will be constructed at applicant's cost.

Chairman Glazer referred to the Borough Engineer's review letter and recommendations. **Mr. Frenzel** responded that the Alpine Country Club property is significantly lower at the end of the cul-de-sac and at the catch basin there is one section of pipes that is not functioning. Instead, it is free-flowing across the lot onto the Alpine Country Club property. Erosion is severe with curb collapse, street pavement showing signs of stress, and electric feeds underground being severely impacted. It was the generosity of the applicants to put their contractor in touch with him to work together and start restabilizing the area. Mr. Frenzel added that he considered this to be a great improvement. **Mr. Hubschman** confirmed that the underground electric feed on the northerly side of the property needs to be relocated.

Member Herries inquired whether the land easement is perpetual. **Mr. Capizzi** confirmed that it is.

Chairman Glazer inquired about the building envelope and impervious coverage. **Mr. Capizzi** responded that the building and improved lot coverages are conforming; a maximum of 9% building coverage is allowed and they are at 8.93%, and 25% of improved lot coverage is allowed and they are at 24.93%.

Applicant's Architect: Noah H. Adler, R.A., NCARB of Noah Harris Adler Architecture, LLC, 233 Whitman Street, Haworth, NJ 07641.

Noah H. Adler was sworn, and having testified before this Board in the past was deemed qualified without further explanation of credentials as a N.J. licensed architect.

Mr. Noah Adler referenced **Exhibit A-8** in his presentation and confirmed that there are no changes or modifications to the design since submission. He provided his design summary of the floor plans, façade treatments and the amenities. Applicants are proposing a two-story, single-family dwelling with finished basement, recreation area, gym, lounge/den area, a bedroom for the nanny, laundry and mechanical room, and with outdoor terrace and a total of 6-bedrooms for the house (5 bedrooms on the second floor).

The first floor is an open plan with kitchen, family room, dining room, library/home office, hallway with covered loggia and 4-season room all adhering to the 21-foot standard depth and proper 24.6 feet depth for a 3-car garage; the design being sensitive to setback restrictions and to minimize the impact on the street as much as possible. The second floor has the 5 bedrooms, 4 bathrooms, a laundry room and outdoor terrace. Due to the slope of the site, front elevation is approximately 29 feet, 6 ft lower than the 35-foot height allowed.

Mr. Kupferschmid inquired about the finish of the house. **Mr. Adler** stated that the design is a modified modern farmhouse with porcelain panels of approximately half of 2/3 of building height in front and carries to entire perimeter of the house with stucco finish in white or light grayish color, and mostly asphalt shingle roof with accents with 10 on 12 roof pitches.

Open to the Public for comments. None.

Open to the Board for comments:

Chairman Glazer inquired about the cupola with the window and the discrepancy of a 6th bedroom versus 5 bedrooms in the plan. **Mr. Adler** stated it is a cupola to allow natural light and exempt from the height limit. **Mr. Hubschman** stated they will increase the septic field on the plans to accommodate for the 6th bedroom.

Mr. Frenzel provided an overview of the restrictions placed on the property. In the northwesterly corner of the property, it is burdened by the storm easement and electric underground service fields. Applicants have dug test pit fields to determine where to put the septic systems. In and from the bottom of the cul-de-sac "bulb" for a linear distance of about 135 feet, if the front yard requires a 60-foot setback, and the rear yard requires a 50-foot setback, it does not leave much room for the house. **Mr. Frenzel** felt that this is a creative approach out and he commended applicants' architect and engineer.

Mr. Kates expressed concern with the proximity of the golf course and errant golf balls or public intrusions. **Mr. Capizzi** stated that applicants had negotiated with Alpine Country Club and there will be substantial plantings to block any errant golf balls. **Chairman Glazer** recommended they notify the police department or install video cameras to deter people wandering on the property. **Mr. Capizzi** stated currently there are 6-foot high walls, but appreciates the recommendation.

Mr. Capizzi summarized that the Applicant tried to do all the right things – stormwater management, continuation of access easement, collaboration with Alpine Country Club, tried to respect intentions of the ordinance and taking under consideration all the hardships on the property, finding a middle ground with the 50-foot front yard setback and designing along the curvature on Miles Street, in order to offset all the negatives.

Member Herries inquired about soil movement. **Mr. Hubschman** stated they are filling approximately 4,000 cubic yards in the front yard and a waiver is required to fill in excess of 5 feet. The rear yard will be filled with 1,000 cubic yards to minimize run-off by leveling the area. There are no stabilization concerns. They are picking up drainage in the driveway and house, seepage pits proposed and no stormwater run-offs to adjoining neighbors.

Mr. Frenzel summarized the five (5) required variances and waivers as follows:

1. Front yard setback of 50 feet, instead of the required 60 feet – Variance.
2. Soil moving in excess of over 1,000 cubic yards – Waiver.
3. Retaining wall encroachment into septic field – Waiver.
4. Fill depths exceeding 10 feet in certain areas – Waiver.
5. Retaining wall encroachment into tree buffer – Waiver.

The septic requirement to accommodate for the 6th bedroom is a redesign issue.

Conditions are set forth on the review letter dated January 4, 2022, with this additional requirement because of the volume of soil that is involved:

- Required that soil brought onto site is pre-certified and compliant with NJDEP residential direct contact standards or,
- If from local excavation, they are natural soils.

Open to the public for comments. There were none.

Open to the Board for comments. No further comments.

Resolution: Upon a motion by Mr. Kupferschmid, seconded by Ms. Herries to approve the application subject to conditions and comments expressed by the Borough Engineer Perry Frenzel.

Vote: Ayes: Mr. Abad, Mr. Barbieri, Ms. Herries, Mr. Kupferschmid, Mr. Glazer

Absent: Mr. Bonhomme, Mr. Clores

MOTION APPROVED

PUBLIC COMMENTS

Chairman Glazer acknowledged Borough Clerk Stephanie Wehmann in the audience for providing support and in joining the meeting tonight.

OTHER BUSINESS None.

ADJOURNMENT at 8:12 p.m. upon motion by Mr. Barbieri, seconded by Ms. Herries.

Vote: Ayes: Mr. Abad, Mr. Barbieri, Ms. Herries, Mr. Kupferschmid, Mr. Glazer

Absent: Mr. Bonhomme, Mr. Clores

MOTION APPROVED

Respectfully submitted,

Jo Anna Myung
Board Secretary