

ALPINE ZONING BOARD OF ADJUSTMENT

Regular Meeting

Thursday, October 17, 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 Vice Chairman Ronan Thur. October 17, 2013 7:30 p.m. at Alpine Borough Hall. Pledge of Allegiance recited. Public Announcement per NJSA 10:4-6: *In accordance with the provisions of the Open Public Meetings Law, the notice of this regular meeting held Thursday, October 17, 2013 has met the requirements of the law by being published in The Record as part of the Annual Notice 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 | <i>Absent</i> | Bob Burns | <i>Present</i> |
| Tony Clores | <i>Absent</i> | David Kupferschmid | <i>Present</i> |
| Ann Ronan | <i>Present</i> | Richard Bonhomme | <i>Absent</i> |
| Larry Shadek | <i>Present</i> | Steve Cohen, Alt I | <i>Present</i> |
| | | Anthony Barbieri, Alt II | <i>Absent</i> |

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

CARRIED MATTER - Dr. Rafael Levin Block 81.01 Lot 4 – 7 Canterbury Court

David M. Watkins, Esq. with offices at 285 Closter Dock Road, Closter, NJ 07624 appeared on behalf of the Applicant, Dr. Rafael Levin of 810 Hemlock Court, Norwood, NJ 07648 along with Douglas Doolittle, P.E., P.P. McNally Engineering 169 Ramapo Valley Road, Oakland, NJ 07436. This matter was originally noticed for a July 18, 2013 hearing but subsequently carried by the Applicant, first due to a scheduling conflict with his engineer, and later to allow additional time to resolve neighbors' issues.

Michael T. Caulfield, Esq. with offices at Schepisi and McLaughlin, P.A. 473 Sylvan Avenue, Englewood Cliffs, NJ 07632-1313 appeared on behalf of neighbor, Aviva Saphier Block 81.01 Lot 7, 7 Canterbury Court.

Two parties spoke for and no one spoke in opposition to the application.

Applicant seeks to demolish existing structures and re-redevelop the property with construction of a single family residence, in-ground pool, cabana, tennis court and other ancillary improvements. The proposed would require the following relief:

- Rear yard setback: 61.34 feet (100 feet required)
- Disturbance of steep slopes 15-24.9% for portions of the home, pool, cabana, tennis court, rockery slope and retaining walls where only transitional grading and road construction permitted.
- Location of pool and tennis court in the side yard where accessory structures are only permitted in a rear yard.
- Waivers for the pool
 - 100% of the in-ground pool peripheral walls more than 3 feet above original grade (30% permitted)

- 80% of the in-ground pool peripheral walls more than 5 feet above original grade (0% permitted).
- Soil moving permit (Cut 2,591 c.y., fill 6,191 c.y., import 3,600 c.y., export 0 c.y. for total 6,191 c.y. exclusive of mounded septic systems) plus waivers for
 - Creation of side slopes steeper than 4:1 (horizontal:vertical)
 - Placement of fill more than 10 feet above original grade
 - Construction of retaining walls exceeding 6 feet in height

The proposed represents a major development for purposes of stormwater management requiring provisions for runoff quantity control, quality control and groundwater recharge as well as a deed restriction tied to maintenance and inspection requirements for the stormwater management system.

Exhibit List Copy provided to Mr. Watkins and acknowledged by stipulation as follows:

A – 1 Proof of Publication on July 5, 2013 in the Record.

A – 2 Certified Mailing to Residents within 200' on July 3, 2013 per Tax Assessor's List dated May 16, 2013

A – 3 Application received June 3, 2013 dated & signed May 31, 2013 including

- Proposal & Reasons for Relief
- 200 Foot Property owners List dated May 16, 2013
- Tax Collectors Proof of Current Taxes thru 2013 3Q

[Note: Application administratively incomplete per Borough engineer's letter June 18, 2013. Revision submitted June 21, 2013; Revisions supplements rec'd June 21 and July 5]

A – 4 Zoning Officer's letter dated May 16, 2013

A – 5 4 Color Photos dated

A – 6 Application for soil moving permit, dated May 30, 2013 with Cut and Fill estimates attached.

A – 7 Storm Drainage Report prepared by Matthew Greco of McNally Engineering dated May 21, 2013

A – 8 Retaining Wall Stability Calculations prepared by McNally Engineering dated June 20, 2013

A – 9 Engineering Plans prepared by McNally Engineering dated consisting of 4 pages:

- Drawing No. SP-1 Site Plan dated April 29, 2013 Revised June 19, 2013 "Revised Per AF Review Comments"
- Drawing No. VM-1 Vicinity Map dated April 29, 2013 Revised June 19, 2013 "Revised Per AF Review Comments"
- Drawing No. SI-1 Steep Slope Analysis dated January 28, 2013
- Drawing No. CD-1 Construction Details dated April 29, 2013 Revised June 19, 2013 "Revised Per AF Review Comments"
- Drawing No. LP-1 Landscape Plan dated August 29, 2013

A – 10 Architectural Plans prepared by John Lignos, AIA SNS Architects & Engineers, PC dated February 15, 2013 consisting of 6 pages:

- Drawing No. D-1 Basement Floor Plan
- Drawing No. D-2 First Floor Plan
- Drawing No. D-3 Second Floor Plan
- Drawing No. D-4 Roof Plan
- Drawing No. D-5 Exterior Elevations
- Drawing No. D-6 Sections & Interior Elevations

A – 11 Letter from Borough Engineer dated June 18, 2013

A – 12 Letter from Borough Engineer dated June 25, 2013

A – 13 Letter from David Watkins dated July 17, 2013 requesting matter be carried to August 15, 2013

A – 14 Letter from David Watkins dated August 13, 2013 requesting matter be carried to September 19, 2013 *[Note: Although August meeting was subsequently cancelled notice*

of continuation was posted on the meeting room doors that evening and in the lobby of the Borough Hall]

A – 15 Letter from Borough Engineer dated September 11, 2013

A – 16 Letter from David Watkins dated September 19, 2013 requesting matter be carried to October 17, 2013

And marked during the course of these proceedings.

A – 17 Colored rendering of Site Plan SP-1 dated April 29, 2013 Revised June 19, 2013 [Part of A-9]

A – 18 Colored rendering of Sleep Slope Analysis SL-1 dated April 29, 2013 Revised June 19, 2013 [Part of A-9]

A – 19 Aerial Map prepared by McNally Engineering dated September 19, 2013.

Attorney Watkins requests (c)1 variance relief for this unique lot. He had requested adjournments to resolve neighbors' questions as will be testified to by Mr. Doolittle.

Douglas Doolittle, P.E, P.P. was sworn and qualified to provide expert testimony in the fields of professional engineering and planning. He introduced Exhibits A-17 to A-19.

Neighbors' Issues.

1. **Landscaping / Buffering:** Mr. Doolittle met with Steve Collazuol, P.E., L.S. of Collazuol Associates, the Saphiers' engineer, to discuss issues with landscape buffering and the location of the transformer. Using the Landscape Plan **[LP-1 of A-9]** they propose to address their concerns by planting a series of arborvitae along the property line between the two properties along with seven red maples in the right of way along Canterbury Court and 3 - 3½ foot high boxwoods along the entire frontage. Per review letter dated September 11, 2013 **[A-15]**, Mr. Vander Veer has approved this plan subject to further review by the Environmental Commission. For the record, Mr. Vander Veer corrected his letter noting he'd received a copy of a memo written by prior Borough Attorney Logan that states trees planted in the right of way by the homeowner remain their responsibility, not the Borough's. While he disagrees Mr. Watkins stipulates the Applicant will be responsible for the trees. The boxwoods can be setback behind the right of way. Mr. Kates made note of Mr. Caulfield's request for a stipulation to maintain and/or replace plantings for a period of three years as permitted by statute. Mr. Watkins agreed to same.
2. **Transformer:** will be relocated further down rather than in front of the property.
3. **Drainage:** Mr. Watkins read into the record correspondence with the Bonguorno's attorney, Josh Silver, who he had provided with copies of Mr. Vander Veer's review letters: "David, Thanks for your letter. My client anticipates that any work done will be done according to the plans and with consideration to their lower elevation and none of those circumstances would cause any objection. Thank you for your cooperation. Regards, Josh."

Having addressed these typical concerns in a neighborly fashion, Mr. Watkins believes, while not binding on the Board, that the neighbors are satisfied.

Existing Conditions/Uniqueness Mr. Doolittle noted the property's existing 1960's home is substandard, rundown and dilapidated having been vacant for some time. The lot is oversized being 2.52 acres where 2 acres is the minimum required in this R-A zone. The lot is one of only four on Canterbury Court, a short, dead-end cul-de-sac. From a (c)1 standpoint the lot is unique due to its limited irregular frontage along the cul-de-sac

and irregular shape with multiple sides. It has two rear yards as defined by the Borough Zoning Officer substantially limiting the building envelope.

Proposal. Raze all existing structures and construct a new single family residence with a four car garage, cabana (attached by a 2 by 12 foot beam), single entrance driveway and amenities including retaining walls, in-ground pool, patio and tennis court. The home is designed to be longer rather than wider, thus less visible from the cul-de-sac. The design's primary purpose is to work with the steep sloped topography. They are not overbuilding but merely dealing with the fluctuation of the building envelope due to the irregular shape. If the lot were flat and rectangular they would not have these difficulties.

Neighborhoods. As depicted on the Aerial Map **[A-19]** Sherwood Court and Canterbury Court are two separate neighborhoods. Lot 7 to the north has a pool, detached cabana and home that Mr. Doolittle engineered in the mid-1980's with square footage comparable to what's proposed for this lot. He is currently retained to re-engineer a substandard 1960's home at the northeast corner of Canterbury and Anderson Avenue. He feels the proposed is consistent with the neighborhood and Borough. Street views will reveal only a small portion of garage, home and retaining wall as the bulk of the structure stretches out behind and will not be visible.

Requested Relief

Rear Yard Variance The frontage curves around the cul-de-sac and Alpine's Zoning Officer has interpreted the lot as having two rear yards. Based on his experience in other towns and relative to the longer portion of the road, Mr. Doolittle feels the functional rear yard uses the southwest property line (adjoins Block 78 Lot 2 with a 94.35 foot setback). The southeast line (adjoining Block 81.01 Lot 3 with a 61.34 foot setback) should more reasonably be considered a side yard. They stipulate to move the attached cabana back to comply with the 100 foot setback to the southwest line and, although they disagree with the Zoning Officer, they seek a 39 foot rear yard variance for the southeast side. This will not impact the neighbor's house to the east which is separated by about 250 feet of heavily wooded space as shown on the Aerial Map **[A-19]**. Neither will it impact the Zone Scheme or Plan.

Steep Slope Analysis [A-18] depicts, by darker green areas, 15-24.9% slopes where only transitional grading or road construction is permissible. They need variances to disturb portions for the home, pool, cabana, isolated parts of the tennis court, walls and grading. Without such relief they lose over 50% of the southern portion of the lot.

Drainage is the primary concern of steep slopes and Mr. Doolittle noted Mr. Vander Veer's September 25, 2013 review letter **[A-12]** acknowledges their drainage plan not only complies but exceeds the requirement by a safety factor of 20%. All surface water will be collected via the drainage system and piped to seepage pits in the southwest rear corner. Driveway runoff flows to two seepage pits by the road. The design will have a positive impact on the neighborhood as it provides about 2,880 cubic feet of storage space exceeding the requirement of 2,300 cubic feet for a 100 year storm. Mr. Kates asked Mr. Doolittle to describe

topography relative to the home to the east. He responded that home is substantially higher as the 15-24.9% slopes continues up the hill. Their lot would have no impact as that lot drains toward them.

Disturbance is a secondary concern but they stipulate to replace the 60 trees to be removed with 59 trees per Mr. Vander Veer's review letter dated September 11, 2013 **[A-15]** subject to concurrence by the Alpine Environmental Commission.

Side Yard Variance. Mr. Doolittle explained to function more with the topography their design fits the pool into the western side of the L-shape home. The tennis court lies further west at the lower end of the property. The long design of the house places these structures in that side yard. If the lot was a flat rectangle they could have designed the house differently and placed the structures in the rear yard.

Soil Moving Permit Approval & Waivers

Retaining Walls will exceed six feet in places due to the slope of the topography from southeast to northwest. The southeast retaining wall is designed to limit disturbance to the uphill home and although mostly six feet high it will reach seven to seven and half feet in isolated spots. Although they could possibly re-grade down to six feet, the proposed design provides for a more usable yard with better drainage flow. A second sixty foot long wall on the west side stretches from the corner of the garage past the tennis court going from nine feet to six feet in height; an isolated area to separate the grade of the garage floor, which is really a garage under, up to the first floor; also a function of the topography.

Fill in excess of ten feet is needed for an isolated and *de minimus* area of the tennis court. A rockery is proposed along the western edge of the tennis court with a 1:1 slope down to existing grade.

Soil moving volumes are as noted in Mr. Vander Veer's June 25, 2013 letter **[A-12]** but Mr. Doolittle notes 1,000 cubic yards of import is actually for the septic system, therefore exempt and will remain on site. They will truck in 1,000 yards of soil and 1,000 yards of bank run material.

The Borough Engineer's June 25, 2013 Letter [A-12] Mr. Doolittle has no objection to complying with any of the items listed therein including required revisions/supplements and guarantees. General Zoning Items/Soil Moving Permit/Recommendations not already covered in prior testimony:

Waivers for the in-ground pool relate to grading and slopes. Walls will be more than 3-5 feet above original grade to deal with the 16 feet of slope from one side to the other. The pool is located within the confines of the site and not visible therefore impact on the Zone Plan or Scheme is negligible and the proposed is a more practical and safer design providing better visibility from the house.

Stormwater Management The proposed disturbs more than an acre of land and creates an additional ¼ acre of impervious area thus it constitutes "Major

Development" for stormwater management requiring runoff quantity and quality controls and groundwater recharge. The drainage system will comply with maintenance enforced by deed restriction as typically required by the Borough.

Septic Systems, black and grey fields, will be located in front subject to conditions as noted in Item 8 of Mr. Vander Veer's letter **[A-12]**.

The meeting was opened to the Board for questions.

Mr. Cohen asked for the definition of a rockery. Mr. Doolittle explained it is a 1:1 slope comprised of buried fieldstones with top soil and plantings placed between voids that grow up and cover the rocks. Height may vary. It is not considered a retaining wall but rather a planted slope constructed at a 45 degree angle. An example as approved by this Board can be viewed at the corner of Closter Dock Road and Warren Lane.

Mr. Kupferschmid questioned safety of the high drop offs shown for the retaining walls 6-9 feet on the west and 6-7½ on the east. Mr. Doolittle noted the code does not require a fence if the wall is more than two feet away from a patio, walkway or path. However, he and Mr. Watkins both agreed this was valid concern and offered to address with some type of restrictive planting, such as boxwoods.

Mr. Kupferschmid agreed with Mr. Doolittle's interpretation that the rear yard to the east should be considered a side yard in this instance.

Mr. Kupferschmid questioned ACO drainage from the pool. Mr. Doolittle explained the lawn area between pool and tennis court drains to the court. The court has a standard minimal pitch with a small strip drain along the western edge just before the rockery. The strip drain will collect all of the water and bring it back around to the seepage pits at the rear of the property. Mr. Vander Veer noted this has yet to be shown on the plan. He noted areas not captured by the driveway trench drain will also sheet flow towards the tennis court for capture in the drainage system. Mr. Doolittle added they will likely add a drain behind the wall to keep water from going over the top.

Mr. Kupferschmid understood their steep slope issues and desire to have the pool and patio elevation near that of the first floor but expressed concern with the need to raise the grade for patio five feet and the pool eleven feet to accomplish same. He does not know how the neighbor on that west side feels about the plan. The tennis court is sixteen feet higher than his property. Could the elevations be scaled down a few feet? Mr. Doolittle acknowledged the grade issue, including a four foot difference through the width of the house, is why they need relief from the steep slopes. He feels they researched all aspects and options and this is the best scenario.

Mr. Burns questioned whether the tennis court strip drain would really accommodate all the rain from a heavy downpour. Mr. Doolittle offered they will try and collect as much as they can. Mr. Burns asked if the neighbor had any objections. Mr. Watkins recalled his earlier statement that their attorney, Mr. Silver, had reviewed the drainage. He pointed out three engineers, the applicant's, the neighbor's and the Borough's, had

reviewed the drainage plan. Mr. Vander Veer clarified he does not give an opinion pro or con but only reviews plans for compliance with applicable regulations.

Mr. Vander Veer questioned if testimony was provided to justify locating the pool and the tennis court in the side yard. By ordinance the rear yard is defined by lines that extend from the rear of the building to the side lines. Mr. Watkins felt there had been inordinate testimony based on the irregular configuration of the lot from a c(1) standpoint. Mr. Doolittle noted multiple elements are involved including dislocation from the house and cabana and reduced functionality were the pool relocated to the rear yard. Mr. Kupferschmid asked, for example, if a variance would be needed for a pool tucked into a U shaped home and Mr. Vander Veer explained technically it would. It has to be behind the rear of the house to comply.

There were no questions from the public. Mr. Watkins rested.

Public Comments

Oded Tal, 3 Canterbury Court, strongly supports the request for approval. He thinks it will be an added value to their street.

Steve Berke, has a degree in urban planning and zoning and has served on several planning and zoning boards. He has lived at 6 Canterbury Court and has known the Levin's for quite some time. He thinks they're a wonderful family and it's a wonderful property. He does not think what they're doing will have any impact on the other homes. There are some intricacies with the slope but their plan is solid and the way they've situated it is beautiful and will really add to the neighborhood. Ms. Ronan asked if he had heard anything from neighbors on Sherwood and he responded not a thing and he lives in the house that's there; he's been staying there.

Being no further comments the public comment portion was closed.

Prior to voting the Board reviewed a summary of requested relief as listed in Mr. Vander Veer's September 25 letter **[A-12]**.

Resolution: Upon a motion by Mr. Kupferschmid, seconded by Mr. Shadek to approve the application of Dr. Rafael Levin Block 81.01 Lot 4 – 7 Canterbury Court, subject to:

- Addressing drainage issues per discussions and subject to the Borough Engineer particularly as relates to drainage by the tennis court.
- Restrictive planting program to buffer the high walls from a straight drop-off for safety subject to review by the Borough Engineer.
- Relocation of pool, cabana, etc. to ensure compliance with the proper rear yard setback (southwest line) of 100 feet.
- Deed restriction for stormwater maintenance plan.
- Environmental Commission review for tree replacement / landscaping plan.
- Maintenance of plantings per statute

Vote: Ayes: Shadek, Cohen, Burns, Kupferschmid, Ronan **Nays:** None

MOTION CARRIED

BUSINESS:

Resolution: Approval of Minutes: Regular Meeting September 19, 2013 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, October 17, 2013 to approve the minutes of the regular meeting held on September 19, 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, October 17, 2013 to approve the following Bills and Claims:

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|--------------------------|-----------------|----------------------|--------|
| North Jersey Media Group | Public Notice | 3-01-21-185-022 | 16.06 |
| North Jersey Media Group | Tahari 20/11 | Escrow:Public Notice | 17.01 |
| North Jersey Media Group | Emami 73/16 | Escrow:Public Notice | 15.12 |
| North Jersey Media Group | Schonberg 78/2 | Escrow:Public Notice | 16.06 |
| Azzolina & Feury | Tahari 20/11 | Escrow: Engineering | 53.50 |
| Azzolina & Feury | Emami 73/16 | Escrow: Engineering | 53.50 |
| Azzolina & Feury | Schonberg 78/2 | Escrow: engineering | 53.50 |
| Azzolina & Feury | Mewani 49.02/24 | Escrow: engineering | 642.00 |
| Azzolina & Feury | LaBarbieri 76/2 | Escrow: engineering | 536.50 |
| Azzolina & Feury | Levin 81.01/4 | Escrow: engineering | 187.25 |

MOTION CARRIED

COMMUNICATIONS Mayor Tomasko informed the Board of the pending adoption of Ordinance 737 defining Decks, Patios and amending fees which completes actions taken in response to the Board's Annual Report. He reminded the generator ordinance 736 was adopted in August. Attorney Kates thanked the Mayor for the Governing Body's expeditious response.

ADJOURNMENT at 8:40 p.m. upon motion by Mr. Shadek seconded by Mr. Cohen and approved by all.

Respectfully submitted,

Nancy Wehmann, Secretary