

Minutes of a Regular Meeting of the Verona Board of Adjustment on Thursday May 9, 2019 beginning at 8:00 P.M. in the Verona Community Center, 880 Bloomfield Avenue, Verona, New Jersey.

Roll Call:

Present: Dan McGinley, Chairman, Scott Weston, Vice Chairman, Christy DiBartolo, Pat Liska, Lou Russo, Sean Sullivan, and Al D'Alessio, Alt #2

Also, present: Robert Gaccione, Esq., Tom Jacobsen, Construction Official and Michael DeCarlo, Township Zoning Officer

Absent: Larry Lundy and Genevieve Murphy-Bradacs, Alt #1

Secretary read the notice of Open Public Meetings law and called attendance.

Mr. McGinley called the meeting to order at 8:03 PM. He leads the Pledge of Allegiance. He then explains to the Applicants that the Board can grant variances, but the burden is on the Applicant to prove special reason or any undue hardship. Mr. McGinley states the Applicants shall offer sworn testimony on their application and the Board will rule based on the evidence presented. He reports the variance, if granted, will be memorialized at the next regular meeting.

Board Business:

Mr. McGinley welcomes new board member Al D'Alessio to the board as Alternate #2. The Township Clerk swore in Mr. D'Alessio that morning.

Application:

**Case 2019-04: Mark A & Madeline Parra,
21 Brookdale Avenue, Block 201 Lot 6**

Mr. Gaccione offered proof of service was in order.

Lisa John-Basta, attorney for the applicant, addressed the Board. She explained that the applicant was there seeking variances for setbacks and improved lot coverage on their property that has existed this way for 10 years or more.

Mr. J Michael Petry as called as the first witness for the application as a professional engineer and professional planner.

Mr. Petry was sworn in.

Mr. Petry gave his background to the Board in both planning and engineering.

The Board accepted Mr. Petry as an expert witness in both planning and engineering.

Mr. Petry prepared the plans for the Board. He presented exhibits A-1, A-2, A-3, A-4 and A-5 all marked. Exhibit A-1 is an aerial photo of the area with the tax map imposed on it. The application property is outlined with a thicker line. It is centered in the page half way between Bloomfield and Sunset Avenues on Brookdale Avenue opposite the entrance of the school area. The property has an irregular shape with a tail in back. The property is next to a house on Brookdale, touches property of a car dealership on Bloomfield Avenue and property on Douglas Place. It is in an R-50 B medium-high density residential zone. Exhibit A-2 is two sheets from the Parra residence addition and garage plans; page 1 of 11 of the plans and the elevation plan. He explained that the applicants had been before the zoning board before in 1995 for a variance to put in a shed larger than allowed at the time. He stated the addition drawings were missing the shed and walkways. It also was missing improved lot coverage calculations. The applicants received permits for the addition based on those drawings in 2007. He showed aerial photo from

2007 showing under construction. He explained that his client trusted in the professionals he hired at the time of construction for the addition and garage. The contractor started work after permits were issued and walked away in the middle with the applicants' money. The contractor did not do the appropriate things like staking out for the garage and the addition to be done. The applicants resumed construction in 2011 with a new contractor and received final approval stickers for the work in 2014. Mr. Petry offered an aerial photo that shows all the improvements on the site back in 2010. Exhibit A-3 is Pronesti survey dated January 17, 2019. The survey shows the house, garage and shed. It shows an irregularly property with a driveway that goes off Brookdale and widens as it goes back to a paver area. It shows the garage 0.6 feet from property line, when the permits were issued 5 feet was minimum required and now it is 8 feet minimum required. The shed is 2.5 inches over the property line on the Douglas Place property. The stream runs through that property past the shed. The survey also shows the walkways, patio and pavers around the shed. The property is lined with evergreens on both sides. Exhibit A-4 is a photo board of the property; 11x17 copies given to the board. Mr. Petry explained the improvements done on the property are well integrated and well done. They present the nicest house in the neighborhood. Exhibit A-5 is the site plan submitted with the application with colors added. From the zoning officer letter, there are several variances. The garage and shed setbacks are to fix without taking them down. The driveway does not meet the 1-foot setback requirement and they are going to take out the part that encroaches in that 1 foot to meet the requirement; this is shown on SP-2 in red. The paver patio in the rear will be removed except at the bottom of the steps as required by code. They are going to shorten the walk on the side to the steps. Currently 67.5 % improved lot coverage with 40% allowed. The applicant is willing to reduce to 57 %. The applicants are willing to make modifications to bring closer to conformance. The lot is an irregular shape. The shed would not meet setbacks on sides even from the beginning. The property is secluded, beautifully maintained and appropriate for the neighborhood. The applicants are willing to give back on the improved coverage. He sees no detriment from this application.

Mr. McGinley asked if this was an undersized lot for the zone. Mr. Petry explained the zone is 10000 sq. ft. minimum and the subject property is just at that. He did add that the property is undersized on width. Required in the zone is 80 feet width and the property is 60 feet wide and tapers as it goes back.

Mr. Weston asked about the visual from the neighbors. Mr. Petry discussed the evergreens planted along sides of the property planted by the owner. He added that if the contractor used those evergreens that go straight back onto the neighbor property there is probably 5 feet setback needed for the garage but he should not have.

Mr. DeCarlo questioned the natural drainage on the property. Mr. Petry explained the property is flat and the natural flow is to the stream behind. The property has trench drainage in the driveway that collects from the driveway and the pavers. Mr. DeCarlo asked who maintains the trees along the property lines. Mrs. John-Basta explained that the applicant maintains them.

Mrs. DiBartolo asked why the applicant purpose was in being before the Board. Mr. Petry stated that the applicant was asked to come in order to close out permits with Mr. Jacobsen.

Mr. Sullivan questioned specifics on photos of areas being removed, specifically ones by garage and around side to front of the house. Petry explained pavers would be removed up to the corner of the garage and around the house with stepping-stones instead. Mr. Sullivan also questioned building coverage. Mr. Petry calculated at the meeting and stated that it is 30.6%. Mr. Jacobsen stated that allowed is 30%. Mrs. John-Basta stated they were not aware of overage. Mr. Gaccione

stated that there is language in the notice to cover it if needed. Mr. Sullivan asked when the house was built. Mr. Petry stated 1872.

Mr. McGinley asked if in professional opinion that he is okay with parts of application that breach property lines. Mr. Petry explained that the only part that breaches is the shed. The garage is in the property. The driveway area that breaches will be removed. Mrs. John-Basta added that the homeowner spoke with his neighbor at 14 Douglas Place where the shed breaches and they are okay with it. The stream cuts their property and that part is not usable by them. They would be willing to secure an easement for this, which would run with the land.

Mr. DeCarlo asked if they tried to buy the land to make the 5ft. setback by having enough land.

Mrs. John-Basta called on the homeowner to answer questions.

Mr. Mark Parra, homeowner of 21 Brookdale Avenue, was sworn in.

Mr. Weston asked about water issues with the regards to neighbor to the south of the property. Mr. Parra explained that properties always had water issues due to the high water table. Since he addressed by putting in the drainage trench the only issue was in the flash flood from august of 2018. Mrs. DiBartolo asked what solution he had come up with for the issues. Mr. Parra explained they have sump pumps that are all interconnected to a drainage pipe that goes out to the back of the property towards the brook. He stated there was no other solution then to go out back to brook because the house sits lower than the street and they followed the natural water flow.

Public questions (for Mr. Petry & Mr. Parra):

Suzanne Rose Waldman, 25 Brookdale Avenue

Ms. Waldman asked if she had authority on whether the walkway adjacent to garage that encroached 2 feet onto her property was removed or not. She stated that she did not want that removed. Mr. Petry said she does have the authority. She also asked if that part of the walkway was part of the coverage percentage coming out. Mr. Petry explained that it was not calculated as any of the coverage since it was not on the subject property they were just removing the encroachment. She also asked where the pipe discharges from the sump pumps because she does get quite a bit of water in her yard. Mr. Petry stated not sure where the pipe is, there is a trench drain in the driveway. Mr. Parra stated it does go back to the brook. Mr. Sullivan asked that he indicate on the drawings where the drain goes. Between shed and garage, it turns and goes to the brook. Ms. Waldman asked then that he showed it does go through her property to the brook. Mr. Petry agreed that was what Mr. Parra indicated on the drawing. Ms. Waldman asked what a group of men were doing on her property in May of 2014 about month after she moved in she called police at this time. Mr. Petry did not know. Mr. Parra indicated they were digging up a sprinkler system and had it moved back on to his side of the property line. Mr. Waldman stated that in the police report from that day Mr. and Mrs. Parra were aware of encroachment onto her property. She asked what encroachment that she referred. Mrs. John-Basta stated that Mr. Parra indicated it was the sprinkler system. Ms. Waldman asked why she was not informed of this or asked about the sprinkler system or having it removed from her property. Mrs. John-Basta stated the sprinklers were not part of the variance application before the Board and would be happy to discuss outside of the hearing. Ms. Waldman stated that it was part of the encroachment and she has photographs of pipes that are still on her property. She wanted to make a request to leave those pipes on her property and not disrupt it. Mrs. John-Basta stated that those are not part of the application but if she wanted to leave them, they could discuss that as well. Ms. Waldman asked about restitution for surveys she had done and a privacy fence that was discussed at a

meeting in August with Deputy Mayor Nochimson, the engineer, the code official and her neighbor. She asked why those items were taken off the table or not done. Mr. Gaccione explained that talks of restitution being provided was not to be heard by the Board of Adjustment. Mr. Gaccione also explained that the pipes and where they were going is a concern of the Board and that they could question the pipes.

Public Questions closed.

Mr. Sullivan asked if the drainage pipe goes to the brook or stops short. Mr. Parra it goes directly. They tapped into something existing, a clay pipe that ran down from Bloomfield Avenue. Mr. Sullivan asked the pipe was found during construction and you taped into that pipe and ran their pipe through it. Mr. Parra stated it was large pipe about 24 inches that they believed had been abandoned and they were able to tap into it and utilize it for their 10 inch pvc drainage pipe. Mr. Gaccione asked if that connection was made on his property. Mr. Parra stated that it was right behind his garage in the center of the property. Mrs. DiBartolo asked about the 10-inch pipe running all the way through and the condition of the pipe. Mr. Parra stated that the clay pipe broke and ended about 15 feet from the brook and they ran the pvc all the way out the brook. The pvc pipe was in great condition. Mr. Weston verified that the pvc pipe was what goes to the brook and Mr. Parra stated that yes it was the pipe that goes to the brook. Mr. Parra also added that these were agreements made with the prior owner of the neighboring property to go through their yard to do this work for drainage and the only way they could do the drainage. Mr. Weston asked these were verbal agreements with the prior owner. Mr. Parra stated that yes he had a very harmonious relationship with the prior neighbors.

Public Comments:

Suzanne Rose Waldman, 25 Brookdale Avenue

Ms. Waldman thanked the Board for having this meeting, since she had been trying to resolve the issues with encroachment the last 5 years. She spent a lot of money and time. She is contesting any of the variances because he is her neighbor and she does not want to see him tear down the garage and shed. She is concerned about privacy. She bought property for the brook and the nature because she is a healer. Exhibit O-1 a photo that shows a view from her patio. Showing big trees planted by Mr. Parra that stops halfway down her property and leaves opening. Over the years, she has tried to plant things there. She feels it would be helpful if resolution to continue the 25 feet trees or fencing. Photo of concrete path that goes by garage that goes into her property over two feet and she does not want that removed, Exhibit O-2. Mr. Sullivan questioned her concern is to have trees continue all the way down on her property for more privacy. She stated yes and referenced back to the first of her photos. He stated that she could do that on her property. Mr. Weston stated that the trees in the rear of the property on her property and she can do whatever on her property is needed. Mr. D'Alessio asked if she was looking for the applicant to put trees on her property. Ms. Waldman stated that she would like trees or fence put in as a resolution. Exhibit O-3 & O-4 photos of sprinkling pipe on property that she does not want removed because she does not want any more disturbance to her garden areas. Mr. Petry asked for understanding of where neighbor wants tree or fence to go. Ms. Waldman shows on diagram where trees go, where the smaller trees are, and where she wants the coverage for privacy. She is concerned she has no coverage for backyard. Mr. Petry stated that they are up toe bedroom. Mr. Weston asked when she wants privacy it is from the second story of the neighbor's house she is looking for privacy from. She stated yes. She had another photo, Exhibit O-5, showing area of where tried to plant things and nothing would last. Mr. D'Alessio asked why if what she tries to plant keeps dying why would not the trees he would try to plant would grow and not die. Concerned where garage is there is no setback. Mrs. John-Basta. Questioned when purchased property if she got a survey of her property. She stated she did not because she

wanted a quick closing. She asked Ms. Waldman if when she purchased the property she saw the garage on Mr. Parra's property. She explained that she purchase din the home and winter and there was snow and she was not really in the backyard. Ms. Waldman explained that this all came to her attention in May of 2014 because she wanted to get a dog and was going to put in a fence. The fence coming told her that the shed was 6 feet on her property and she had documentation from the company saying that. She then hired a surveyor to survey her property. The last surveyor shows the shed is on Mr. Pierce's property on Douglas Place. Mrs. John-Basta asked again about the garage and trees being there when she purchased the property and there was nothing changed since. Ms. Waldman stated that they were all there and he has not changed anything. Mrs. John-Basta if the shed was determined not to be on her property but on the other neighbor's, the Sullivan's property. Ms. Waldman then presented a photo of the shed, Exhibit O-6 and the survey from the shed permit, Exhibit O-7. She stated that he shed was nowhere near on the survey where it was actually built. Mrs. John-Basta explained that what was being presented was from 1994 variance approved for a shed that would exceed the code at that time. She further continued that a survey was presented now showing it encroaching on the property line and is part of the variances they are requesting at the meeting at this time. Ms. Waldman offered her survey, Exhibit O-8, to the Board. Mr. Weston questioned if she disagreed with what was presented in regards to shed and where it is located. Ms. Waldman stated she did have surveyor show that it was on her property at one point and at this point, the survey does not show it on her property so she has to go with the experts. She stated it is a beautiful she and she was not contesting the variance. Mr. DeCarlo offered that Ms. Waldman had three surveys done that he reviewed and there is discrepancy of about 5 feet in the rear of the property between all 3 surveys. He believes that that is where some of the discrepancies that have come with the garage and shed locations. Mr. Petry agreed that the area in the back are a mess and hard for surveying. Ms. Waldman presented a photo, Exhibit O-9, to show area where she wanted bigger trees put in on her property for privacy. Mr. Liska asked a question of Mr. Petry about the concrete that Ms. Waldman was asking be left on the side of the garage. He asked if part of it was not put in his calculations. Mr. Petry explained that they did not count in any portions that are on other properties in their calculations of coverage. Mr. Liska if they leave that portion and then would leave the part that leads up to it that is on Mr. Parr's property. Mr. Petry stated that he was not certain they would leave the portion on his property. Mr. Liska just wanted Ms. Waldman aware that if they kept that part they would probably be cutting it and leaving a weird cut. Mr. Sullivan repeated that if she wanted to keep the part on her property it did not mean Mr. Parra would have to leave it on his property and if they remove it, there would be sliver of concrete on her property. He added and that then if he removes there would be sliver of dirt between that and garage. Ms. Waldman added that that is why she is there to advocate for that to be left and for him not to need to remove that concrete. She is trying to be agreeable and not contest the variance in order for him to keep that pavement. Mr. Sullivan asked that if he removes the portion on his property would she then want the portion on her property removed and plantings put in. Ms. Waldman stated yes. Ms. Waldman asked for clarification on if removes walkway put trees or plants. Mr. .Sullivan agreed that was what he said. Mrs. DiBartolo asked what Ms. Waldman is looking for. Ms. Waldman stated originally wanted a fence up for her to get a dog and privacy most important issue. She has an issue with flooding and engineer concerned with water coming over and concern with pipe and rain drop-off into her property. She wants drainage handled. Mrs. DiBartolo asked if she knew where water was coming from. Ms. Waldman stated she did not and she was not aware of pipe on her property. Mr. Petry explained that the curb comes up along the driveway all the way to the garage and there is no way water can come from this property to her property along the driveway. He continued in the rear near the shed there is no curb to stop water running downhill where more natural. Mr. McGinley asked where the water in driveway goes. Mr. Petry explained it pitches toward drain. Mr. Sullivan asked where drain goes. Mr. Petry stated they did not know. Ms. Waldman added there is tile in the rear area of her property that does not adequately stop the water.

Mr. Gaccione asked council if they had a survey from the time of acquisition of his property or only have the Pronesti survey they are dealing with. Mrs. John-Basta stated they were using the Pronesti and she was not sure if they had a survey from when purchased. Mr. Gaccione asked Mr. Petry if the survey Pronesti did was based upon the deed for Mr. Parra. Mr. Petry stated yes. In addition, that he put the deed and survey information on the survey itself.

Public closed.

Summation from Mrs. John-Basta. Repeating that the property has remained as is for 10 years and Ms. Waldman purchased her property as conditions are. Mr. Petry testified to the conditions of the variance, the improvements being made to make closer to coverage and criteria both positive and negative in order to grant the variances.

Mr. Gaccione asked if they were engaged to do a drainage plan. Mr. Petry stated he was not.

Mrs. DiBartolo asked that the permits were closed in 2014. Mr. Petry stated the final inspections were done in 2014 but Mr. Jacobsen was holding them open until issues tonight are resolved. Mr. Jacobsen added that the final certificates were not issued yet.

Mrs. DiBartolo asked Mr. DeCarlo is this stream was subject to flooding. Mr. DeCarlo stated it was and lot of flooding issues. Mrs. DiBartolo added that the water issues might not be run off but ground water coming up. Mr. DeCarlo stated that it was unknown.

Mr. Weston stated that he felt the shed and garage have been there a while and like the neighbor stated not inclined to make them take them down and move them. He added with the privacy knew what at time of purchase and a fence could be put up but it would need to be with in what ordinance allows and it would not be high enough to block the second story from looking down. The neighbor is free to do what would like as long as in town ordinances and does not believe that Mr. Parra would have to do anything with that. He was in favor of the application.

Mr. Russo agreed and felt this was complicated and everything was addressed.

Mr. Sullivan stated the building coverage was slightly over and the improved lot coverage was quite over the allowed. This is older building and has pattern what seen elsewhere with garage setback and long driveway that leads to it. The homeowner offered to remove large area of patio as the driveway cannot be removed in order to use the garage. Mr. Sullivan was in favor of the removal of the entire walkway by the garage with some plantings. He also stated that there would be nothing that would prevent privacy from second floor. He was in favor of application with what proposed to be removed and to grant the variances.

Mr. Liska agreed.

Mr. D'Alessio stated this was well presented. He offered that what agreements they want to make they sit down and talk it out between neighbors. He was in favor of the application.

Mr. Sullivan motioned for approval of case 2019-04 as presented; Mr. D'Alessio seconded the motion.

All votes aye. Application approved.

Mr. Jacobsen added that once all the pavers and concrete removed they call for inspection to have the permits closed out.

Minutes:

Minutes for regular meeting April 2019.

Mr. Sullivan motioned for approval of the minutes; Mr. Weston seconded the motion. Mr. D'Alessio abstained.

All votes aye. Minutes approved

Resolutions:

Case 2019-01 467 Bloomfield Avenue, zoning Appeal.

Mr. Sullivan motioned for approval; Mr. Weston seconded the motion. Mr. D'Alessio abstained.

All votes aye. Resolution memorialized.

Case 2019-03 467 Bloomfield Ave, variances.

Mr. Weston motioned for approval; Mr. Sullivan seconded. Mr. D'Alessio abstained.

All votes aye. Resolution memorialized.

Meeting adjourned at 9:42 PM to next regular scheduled meeting.

Respectfully submitted

Kelly Lawrence

Board of Adjustments Secretary