

Minutes of a Regular Meeting of the Verona Board of Adjustment on Thursday September 12, 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, Larry Lundy, and Sean Sullivan

Also, present: Robert Gaccione, Esq. and Michael DeCarlo, Township Zoning Officer

Absent: Lou Russo, Genevieve Murphy-Bradacs, Alt #1 and Al D'Alessio, Alt #2

Tardy:

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.

**Application:**

**Case 2019-10: Nicole DeMeo & Matt Stallone,  
20 Whitney Terrace, Block 1801 Lot 40**

Nicole DeMeo and Matthew Stallone, property owners, were sworn in.

Mr. Gaccione offered proof of service is in order.

Ms. DeMeo explained to the Board they are requesting a variance to keep up a dark deer fence that they installed along the rear line of their property. She referenced the paperwork submitted to the Board. She feels the fence is unobtrusive, cost effective and virtually invisible. She also referenced photos submitted that show the fence within her property and shows the transparency. She also explained the Verona Environmental Commission submitted comments supporting the fencing. The homeowners have found fence effective in keeping deer and ticks out. It also has helped keep their dog in the yard.

Mr. McGinley asked for the conflict with the code to be explained. Mr. DeCarlo explained that the code does not allow temporary fencing, which the deer fence is considered. He further added that more specifically mesh and fiberglass netting fences.

Mr. Liska questioned the height of the fence because the paperwork submitted states it is 7.5 feet high. Mr. DeCarlo added that was a variance also needed if kept at that height. Mr. Stallone explained that they had taken 2 feet off the fence to comply with the 6 feet height regulation.

Mr. Weston asked when the fence was installed. Mr. Stallone explained that they had installed it in November. Ms. DeMeo explained that other than repairs for branches that fell on the fence, the fence has been up since. Mr. Weston asked if the fence requires routine maintenance. Ms. DeMeo stated that the fence is said to last 10 years. Mr. Weston asked they explain the trees in the pictures. Ms. DeMeo stated the arborvitaes were planted by people who owned property before them. They had some trees removed and replaced when others fell the winter they first owned the property. She explained that the fence hugs the back of the trees in the pictures.

Mr. McGinley asked where the property line is. Ms. DeMeo explained the line is about foot or so behind the trees.

Mrs. DiBartolo asked if they installed the fence or if a contractor installed it. Mr. Stallone explained he installed the fence. He state he went in from an old fence there, put in a post and went down the tree line. Mr. DeCarlo added that looking at the property and survey it is safe to say the fence is within the property lines.

Mr. McGinley asked about the other fencing around the property. Ms. DeMeo explained the deer fence goes up the neighbors pool fence, that runs down portion of their one side property line and the other side is a fence they had installed. Mr. McGinley asked how high the other fences are. Ms. DeMeo explained the neighbors' pool fence is 4 feet high and the other fence that is theirs is 6 feet high.

Mr. Sullivan asked about a permit for the fence. Mr. DeCarlo stated that there is now a zoning permit for fences. Ms. DeMeo stated that she originally called the township building department about fencing when she moved in, she was told that there was no permit for fences and it was never mentioned about fencing type only 6 feet high and 6 inches off property line. This was before the zoning permit was in place.

Mr. McGinley stated that if this fence had been a chain link fence it would be a non-issue and not need a variance. Mr. DeCarlo agreed. Ms. DeMeo explained that with the bigger trees and their roots it is difficult to navigate around with a fence like that that would require cement foundations for posts. Mr. Stallone explained they thought it was easier than trying to move around the trees or remove more trees.

### **Public Questions:**

Rita Mughetto, 37 Pease Avenue.

Mrs. Mughetto explained that she shares 156 feet in the back of her property with the applicants and the fence. Ms. DeMeo stated that they only share 100 feet of property line.

Mrs. Mughetto questioned the homeowners stating it would be difficult to put in other fence because they would need to take down trees, when they had taken down trees since they moved in. Ms. DeMeo stated she was not sure why her husband stated that and she said that it is the roots system from the trees that make it difficult for doing the fence with post footings. She stated that trees have been cut on her property.

### **Public Statements:**

Rita Mughetto, 37 Pease Avenue

Mrs. Mughetto stated that she objects to the fence due to the blighting and maintenance to her own property. She stated she and her husband have tried to work things out with the neighbors and they have been unable to work it out. She feels both properties are maintained well.

Mrs. Mughetto submits a statement and pictures to the Board marked as exhibits O-1 and O-2. The photos show the view from 20 Whitney Terrace versus the view from her property at 37 Pease Avenue.

She stated that the neighbors installed a fence that looks like nice from their views but not from her view. The temporary fence is invisible to the applicants. She feels the applicant can keep their dog in by using fencing that are allowed by the ordinance. Aluminum fence installed along sides and front but not along rear. They wrote to the applicants in March about it being a blight. They left behind the trees and not the front of the trees where they would see it more. Feel they

are improving their property to the detriment of their property. She argued that the applicant stated this was a good option for the fencing when it was just a cheaper option. Mrs. Mughetto stated that the fence is not well maintained as shown in her pictures. They have been complaining to the applicants since it was installed and their response of it not being a detriment to the public shows a disregard for their neighbors. She feels disappointed that she needs to defend her position when it is something illegal already by township standards.

Mr. Sullivan asked if there was a fence between the properties prior to the applicants coming in. Mrs. Mughetto stated that there was a chicken wire fence that also belonged to the applicant and has now been removed. They had two fences. Ms. DeMeo added that the chicken wire fence was in before the Mughetts moved in to their house.

Mr. Sullivan asked about the other fences installed on the property. Ms. DeMeo explained they installed fences along the side and connected to the neighbors' fence along the front. They did not do the back fence after that because they were not prepared for the amount it cost for the other fence at the time. They have a dog and were looking to keep the dog in the yard. She added that they do see a good majority of the fence they installed from their property as well. This fence is barely seen as opposed to a wood fence that would have more maintenance. They are first time homeowners.

Secretary made copies of photos for the Board to review – took a few minutes for Board to review the photos.

Board resumed

Mrs. Mughetto continued her statements in regards to deer and everyone having a problem in town with them. There is not much to keep deer out and they would like to keep them out as well but the ordinance does not allow that type of fence. She asked why they would not put the fence to the other side of the arborvitaes on the property. Ms. DeMeo stated that they would lose 6 feet of their property if they did and the fence where it is still on their property.

Mrs. Mughetto stated the fence made it look like a construction site. She had a realtor from Berkshire Hathaway look at her property and in their report; they stated that the fence diminishes their property appeal.

Mr. Weston questioned what part of the fence had not been maintained. Mrs. Mughetto explained it was more the chicken wire fence they went to mediation about that was the issue. Mr. Weston asked what about the fence there that is the issue. She stated the poles, the sagging and looks cheap. Mr. Weston asked if prior to the fence installed did she see the run down chicken wire fence. Mrs. Mughetto stated that was not seen until the applicants removed trees from the rear of their property and some of her trees as well.

Mr. Lundy questioned where the fence was in regards to her property. Mrs. Mughetto explained in the rear area. Mr. Lundy stated in the pictures looks like trees and wooded area where the fence is. Mrs. Mughetto stated that there is no foliage between the fence and her property. Mr. Lundy stated that the photos show a big difference from far away and when taken up close to the fence. Mr. Lundy questioned prior to the applicants moving in and with the dilapidated chicken fence did she ever consider putting up her own fence. Mrs. Mughetto stated the chicken wire fence was low to the ground that there was not a lot of it. Mr. Lundy also questioned that when the Mughetts moved in the chicken wire fence did not deter them from moving in to their house. Mrs. Mughetto stated she got where he was going with the question but the fence was not

like this, it was not 150 feet of it. She stated the variance is asking for us to put up with the fence the rest of their stay in their house.

Mr. Gaccione and Mr. McGinley clarify that the fence runs 156 feet on the applicants property and that the properties at 37 Pease and 20 Whitney share 100 feet of property line.

Mrs. DiBartolo asked about the other neighbors that also share property line with the deer fence on it having any issues. Ms. DeMeo stated that they signed a petition that they were okay with the fence and have no issues.

Mr. Liska questioned the posts of the fence and how far apart they are. Mr. Stallone stated about 6 feet apart. Mr. Liska stated that is why the fence is sagging. Mr. Liska asked if they are allowed to keep the fence would they be willing to put more posts in to keep the fence from sagging.

Public Closed.

Ms. DeMeo and Mr. Stallone explained the photos they show were from 50 feet away at their patio and Mrs. Mughetto went 5 feet to the fence to take photos, which gives a very different view. The fence that was there was 140 feet of the property and more visible. They also agreed to add more posts to tighten the fence up.

Mr. Lundy stated that Mr. Liska's suggestions of adding posts could be a good condition subject to official inspections. Mr. Weston was in favor of the conditions of posts no more than certain number of feet and not higher than the fence posts to keep height down and not sag down or over. Mr. Liska stated that 4 feet would be best distance for posts. Mr. Sullivan asked how high the posts are. Ms. DeMeo stated about 6 feet high. Mr. McGinley stated he found it hard to accept a 6 feet plastic fence and at the last meeting, he found it hard to have a 6 feet vinyl fence. He felt that the fence has to be maintained with 4 feet to posts and a wire through the top connecting the fence and holding it up. Mr. Sullivan felt the fence disappears and is an improvement to the wreck of a fence there before. He felt with the height and requirements to the fence more permanent fence he would be in favor of it. Mr. Weston agreed.

Mrs. DiBartolo and Mr. Lundy discussed the planner and ordinances and what area this falls in of aesthetics and possibly opening up for more to come in and put up fences like these all over or viewing each applicant individually.

Mr. McGinley pointed out that the environmental Commission was in favor of the recyclable fencing. Mrs. DiBartolo stated that there could be other recyclable fencing used. Mr. DeCarlo stated that this was not an orange construction fence but based on what is allowed in ordinance there is nothing to say it cannot be orange. He added that what is permitted and what is temporary if objective and would be taken at case-by-case basis.

Conditions reviewed posts 4 feet apart to keep uniform, height 6 feet, tension wire through to keep sturdy, subject to municipal engineer's review and approval

Mr. Lundy motioned approval of the application with conditions stated; Mr. Sullivan seconded the motion.

All votes aye, Mrs., DiBartolo abstained. Application granted.

**Resolutions:**

Case 2019-09 Derrick, 9 Hathaway Lane

Mr. Sullivan motioned for approval; Mr. Liska seconded the motion.  
All votes aye. Resolution memorialized.

**Minutes:**

Minutes for regular meeting June 2019.

Mr. Sullivan motioned for approval of the minutes; Mr. Weston seconded the motion.  
All votes aye (Mr. D'Alessio abstained). Minutes approved

**Board Business:**

Reorganization of the Board.

Mr. Liska nominated Mr. McGinley for Board Chairperson; Mr. Lundy seconded the motion,  
Mr. Weston third the motion.

No other nominations for Chairperson. All votes aye. Mr. McGinley voted Chairman for year.

Mr. Sullivan nominated Mr. Weston for Board Vice-Chairperson; Mr. Lundy seconded the  
motion, Mr. Liska third the motion.

No other nominations for Vice-Chairperson. All votes aye. Mr. Weston voted Vice-Chairman for  
year.

Meeting adjourned at 9:17 PM to next regular scheduled meeting.

Respectfully submitted  
Kelly Lawrence  
Board of Adjustments Secretary