

Minutes of a Regular Meeting of the Verona Board of Adjustment on Thursday October 10, 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, Pat Liska, Larry Lundy, Lou Russo, Sean Sullivan, Genevieve Murphy-Bradacs, Alt #1 and Al D'Alessio, Alt #2

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

Absent: Christy DiBartolo

Tardy:

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

Mr. McGinley called the meeting to order at 8:00 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 2019-11: CamGar at Verona LLC, Runnymede Gardens**

**34 Linn Drive Garage #14, Blocks 2301, 2302, 2303, 2304 Lots 20, 1, 2, 11**

Joshua Gorski, applicant's attorney, from Mandelbaum Salsberg addressed the Board. He explained the applicants are looking for a use variance to convert a garage to a small gym / fitness center for residents of the apartment complex only. He explained the applicants were already approved by the Board to construct a separate gym facility few years before. The attorney stated he would have two witnesses to speak to the Board, Kenneth Fox, architect and planner for the applicant and Joseph Feldman, representative of the property owner.

Mr. Piromalli offered proof of service was in order.

Kenneth Fox, architect and planner for the applicant, was sworn in.

Mr. Fox gave his credentials to the Board. He stated he had previously had presented to the Board years ago. The Board accepted him as professional in both architecture and planning.

Mr. Fox presented several exhibits to the Board; A-1 a google map of the whole site, A-2 google image of the property that includes parking, and A-3 a land survey with red "x" indicating location of proposed gym.

Mr. Fox explained the applicants are looking to make a small exercise room for use of the residents of the apartment complex only not for outside people. The gym would have 5 pieces of equipment to one side and free weights to the other side. This would be an amenity to give the residents. He referenced exhibits A-3 and A-2 to explain the location of the garage to be converted. In A-2, the picture shows a white vehicle parked near the garage to be converted. The gym would be a short walk for many residents or they would be able to drive to the garage area and park in the parking spots near it. He explained this would be an ancillary or accessory use to the apartment complex. He explained the application meets the purposes of zoning well-being of the persons in neighborhood and there is no negative to the people who already live there. There are no noise or fumes from this use. The garage is 30 feet by 30 feet, 2-car garage area like you

would see in a single family home. He continued stating there would be no impact to the neighbors and it is not visual to the neighbors.

Mr. Gorski added that in the letter of denial from the Zoning Officer noise and it effecting the residents above and asked Mr. Fox to address this. He explained that they would provide insulation and other construction materials to help limit noise. The gym would have weight plates making noise like in a normal, as the equipment is limited. Mr. Fox stated that there was no specific time for hours of operation of the gym, gym would be available 24 hours to residents, and the gym would be accessed by code or key fob. The design is more like a home gym.

Mr. D'Alessio asked about the current garage doors staying or being changed. Mr. Fox explained the garage door would be removed and replaced with a regular door with windows. Mr. D'Alessio asked about ventilation for the gym. Mr. Fox stayed there would be wall air conditioning units and the heat would be baseboard. Mr. D'Alessio also asked about lighting for the facility. Mr. Fox stated there would be a light outside on motion sensor. Mr. D'Alessio where this garage backs up to in the site. Mr. Fox explained that this garage backs up to the old railroad area. Mr. Weston how they would restrict to residents only. Mr. Fox explained there would be a code or something to identify them. Mr. DeCarlo asked how many residents there are. Mr. Fox deferred the answer to the next witness called. Mr. Weston asked about the parking for the gym. Mr. Fox explained there was parking spaces in front and along the railroad area that are not usually full. Mr. Weston asked how many parking spaces are around the building and how many units are in that building. Mr. Fox stated he was not certain on the numbers but they only anticipated 4 to 5 people maximum at a time. Mr. D'Alessio questioned a gym that only fit 4 to 5 people for a complex with more than 100 people in it. Mr. Fox stated this was a start for them to provide service. Mr. DeCarlo questioned if they would remove the parking spaces in front of the gym doors. Mr. Fox stated that they were not going to but they would provide a barrier if they keep them. Mr. McGinley asked if the garage was assigned to anyone. Mr. Fox stated that it was vacant. Mr. DeCarlo asked about an accessible route to the garage if there was going to parking still there in front. Mr. Fox explained that there was two feet there now and they could put bollards in and restripe area to make room. Mr. DeCarlo asked if there was going to be any signage for the gym facility. Mr. Fox stated a small identification sign only would be done. Mr. Sullivan questioned if they were changing the time of operation, 6 am to 11 pm, as indicated in the application. Mr. Fox explained it works to have it open 24 hours but wanted to check if the Board would restrict the hours. Mr. Sullivan asked if there were rules for the complex if anyone had complaints and if they would go to the management. Mr. Fox stated that yes there is a process for complaints with management.

#### **Public Questions (for Mr. Fox): None**

Joseph Feldman, Vice President for the owner CamGar, was sworn in.

Mr. Feldman explained that there are 252 units in the complex. The Building #3 where the gym is proposed has 12 units all together.

Mr. Sullivan asked if he knew how many residents in that building. Mr. Feldman stated he did not know but there are mostly 1-bedroom apartments with a few 2-bedroom apartments. He added that there are no more than 2 bedrooms in any of the units. Mr. DeCarlo asked if there would be a membership fee for the gym. Mr. Feldman stated they anticipated a \$5 per month. Mr. DeCarlo asked if they poled the residents in the complex to see how many may want the gym facility. Mr. Feldman stated that they did not pole the complex but used what was done at other properties owned by CamGar. Mr. Lundy questioned what the vacancy rate was in the complex. Mr. Feldman stated that they have a 3% vacancy rate. Mr. D'Alessio asked if the unit

above this garage was occupied. Mr. Feldman stated that is occupied however, the tenant had given notice they would be vacating the apartment. Mr. D'Alessio asked if the notice was the reason they were not at the meeting. Mr. Feldman explained that they had been communicating the last few months about the project and her only concern was with noise. Mr. D'Alessio asked about the noise and music. Mr. Feldman stated that there would be signs for the noise and music. He also added that no children would be allowed in the gym and signs would be posted for that as well. Mr. McGinley asked if they had reviewed the comments from the Fire Prevention Bureau. Mr. Feldman explained they had and the request for CO detectors for a business use with an indicator in the gym. Mr. Fox added that they would include the detector and will work out with the Fire Prevention Bureau about the use group and some exceptions that make it business. He continued that there was not audio / visual alarms building wide but they would do if it was required by the Fire official. Mr. DeCarlo asked if each building had vacant garages or if just this one did. Mr. Feldman stated that not all have vacant garages, mainly the ones along the railroad do. Mr. McGinley asked if any garages were included in the requirements from the original site plan approval. Mr. Feldman stated that he thought they were okay with the parking. Mr. McGinley asked about the time for operating the facility being 24 hours and that there is nothing allowed to be 24 hours in Verona. Mr. Liska stated that the self-storage facility was granted to be open 24 hours. Mr. Lundy asked if the laundry area was 24 hours in the building. Mr. Feldman stated that they were not 24 hours. Mr. Piromalli stated that in the 2015 resolution for the original gym facility that was granted the conditions had 23 parking spots short, with limited operations from 6 am to 10 pm with access by key fob. Mr. Lundy asked if the applicant would have an issue if they restricted the time from 4am to 11 pm. Mr. Feldman stated that time would be reasonable. Mr. D'Alessio stated that he was not comfortable with 4 am with lights and noise for the people that may live above and surrounding the gym.

#### **Public Questions (Mr. Feldman): None**

Mr. Gorski ended with the testimony of the architect / planner and owner representative. He stated this is a small garage converted to a gym facility to help the people of the complex. The 2015 application was for a much bigger facility that was granted with some conditions.

#### **Public Statements/Comments: None**

Public closed

Mr. McGinley stated he agreed with Mr. D'Alessio on the time being too early. Mr. D'Alessio again stated that 4 am for the tenant above could be early. He also stated that based on testimony the tenant above is moving out and the new tenant would be aware and have a choice of living above a gym or not. He said he was comfortable with 6am to 10 pm. He also had concerns with it being late. Mr. Piromalli asked if there was a superintendent on site. Mr. Feldman stated yes. Mr. Piromalli questioned the possibility of maybe limiting to having that apartment for employee only. Mr. Lundy stated that based on the size of the space there would not be many people coming out early at 4 am making it a big event early in morning. He added that even at a larger facility opening at 4am or 6 am would not be a big thing and that anyone after the garage is fit out that would rent the apartment above would be aware when they rent it as to the times and what would be below them. Mr. DeCarlo added that his concern would be more for the open garages that may come up being turned into gyms as well or allowing a gym facility to run them or allowing in outside people. Mr. Piromalli stated that by testimony they would be only for residents of the apartment complex. Mr. D'Alessio asked if there were any plans for future gyms. Mr. Feldman stated not at this time. Mr. Weston agreed with Mr. Lundy that restricting the hours would not do much good. In addition, that it was a positive that the apartment would be vacant above and a person could decide if they wanted to live above the gym. There was no one there to

voice opinions or concerns about the facility and the applicant will be putting in noise barriers. Mr. D'Alessio asked if there would be any vending machines or water in the facility. Mr. Feldman that not at this time. Mr. DeCarlo requested that they submit a striping plan that shows the bollards, parking and access to be approved. Mr. Feldman stated that they would. Mr. Sullivan stated that he was in favor of restricting the hours and that if someone wanted they could join a gym that is open more hours. Mr. Lundy added to that he is a member of a gym that opens at 5 am if they needed earlier maybe they would seek another place that is open earlier. He asked the applicant if they would be okay with hours 5am to 10pm. Mr. Feldman stated they would prefer 5 am to 11 pm but would go with what the Board decides. Mr. Sullivan added that in town commercial business are not allowed to operate between the hours of 12 midnight and 6 am. Mr. Lundy added this was more like a private club if it is limited to the residents. Mr. McGinley stated that based on comments the restriction of hours was universal and generous at 5am to 11 pm. Mrs. Murphy-Bradacs asked if the residents of the complex were notified. MR. Feldman stated that the residents would be told after they have approval and an opening. Mr. D'Alessio asked if they were required to notice the residents. Mr. Piromalli explained that the tenants do not need to be notified of the hearing.

The condition summary discussed and Mr. Piromalli stated as follows: use restricted to residents of apartment complex only, hours of operation 5 am to 11 pm 7 days a week, access controlled by key fob or pad and striping protection plan to be the Township Engineer for review and approval to ensure no vehicles crash through the doors.

Mr. Sullivan asked about the Fire Prevention comments and Mr. Piromalli reviewed that they would be working on that with the Fire Prevention Officials for compliance.

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

All votes aye. Application granted.

#### **Resolutions:**

Case 2019-10 DeMeo – Stallone, 20 Whitney Terrace

Mr. Sullivan motioned for approval; Mr. Liska seconded the motion.

All votes aye (Mr. D'Alessio abstained). Resolution memorialized.

#### **Minutes:**

Minutes for regular meeting September 2019.

Mr. Sullivan motioned for approval of the minutes; Mr. Weston seconded the motion.

All votes aye (Mr. D'Alessio abstained). Minutes approved

#### **Public Comments:**

Mr. Mughetto stated from the audience that he had issue with the resolution and approval for 20 Whitney terrace. He questioned what the Chairman states at the beginning of the meeting that the burden of proof is on the applicant. Mr. McGinley stated that the focus on that application was the benefits outweigh the detriments. MR. Piromalli added that if C-1 variance they would need to be exceptional conditions to warrant granting of variance and if C-2 need to show benefits outweigh the detriments. With this application, C-2, allow the variance if meets positive or certain purposes of zoning and master plan, the negative cannot have detriment to public good or master plan. Mr. Sullivan reminded that they were discussing a matter not before the Board this night. Mr. Mughetto stated he was a tax-paying person and wanted to understand the basis of the granting. He was not able to attend the last meeting and the other three times the application was adjourned or the meeting was cancelled. Mr. Mughetto asked when the applicants were required to put the fence up the way allowed. Mr. Piromalli stated that resolution gives the applicant 2

years from the moment it is memorialized. Mr. DeCarlo stated that since the fence was already in he would give them 30 days to make the changes in the resolution.

Meeting adjourned at 8:57 PM to next regular scheduled meeting.

Respectfully submitted  
Kelly Lawrence  
Board of Adjustments Secretary