

**MINUTES OF THE BOARD OF ADJUSTMENT MEETING**  
**Thursday January 14, 2021**

Present:

Chairman Dan McGinley  
Vice Chairman Scott Weston  
Mr. Larry Lundy  
Mr. Paul Mathewson  
Mr. Mike DeCarlo, Zoning Officer

Mrs. Christy DiBartolo  
Mr. Pat Liska  
Mrs. Genevieve Murphy-Bradacs  
Mr. Robert Gaccione, Board Attorney  
Mrs. Ashley Neale, Acting Board Secretary

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Meeting called to order at 8:02 P.M. by Chairman McGinley. This meeting was held via Zoom Video Conferencing due to COVID-19 pandemic.

Open Public Meetings Act Statement is read by acting Secretary Mrs. Neale.

Roll Call is taken.

**Pledge of Allegiance:**

Chairman McGinley gives a brief overview of the Boards duties and responsibilities.

**Hearing of Application 2020-09 for 1 Rawding Court**

Mr. McGinley verifies with Mr. Gaccione that proof of service is in order. Mr. Jonathan Guildin owner of 1 Rawding Court introduces himself and states that the purpose of this application is to seek variances related to constructing a 20x30 foot swimming pool in side/back yard of his property. He notes that his lot is a corner lot on Rawding Court located off of Durrell Street. He explains that because of the uniqueness of his property there is more of a side yard than a backyard. He also notes that the property has a retaining wall, making their yard set below the cul de sac. Mr. Guildin states that one variance they are seeking is for the pool being closer to the street than the principle structure, adds because of the lot shape there is no other place to put the pool. He testifies that the other variance they are seeking is for lot coverage. The Township ordinance allows for a maximum for 40%, and this application is seeking 43%.

Mr. McGinley asks if the Board has any questions. Mr. Weston asks if any other properties on Rawding Court have pools. Mr. Guilding responds by stating no other neighbors on Rawding currently have pools, but his immediate neighbor on Durrell Street has one. Mr. Weston asks if there have ever been flooding issues on the property. Mr. Guildin notes that there is none, and there is an underground system on the cul de sac that collects storm water.

Mr. McGinley notes for the record that Mr. Lundy has joined the meeting at 8:17.

Mr. Gaccione swears in Charles Stewart has an expert engineer on behalf of the applicant. The Board accepts Mr. Stewart as an expert. Mr. Stewart notes that his firm designed the cul de sac, and there is a large storm drain from Durrell Street, he adds that small amount of increase of impervious coverage would not adversely impact the drains capacity. There is continued discussion on drainage along the retaining wall. Mr. Liska notes that he would like to see the drainage pipe continue along the retaining wall as part of a condition for approval. Mr. Stewart and Mr. Guildin agree that this would be a reasonable condition.

Mr. Gaccione swears in Randi Friesema, a licensed landscape architect from Cording Landscape Design out of Towaco, as an expert who prepared plans as part of this application. The Board accepts Ms. Friesema as an expert, after she briefly explains her background. She continues by explain the layout of the pool, and where the deep end and

mechanicals will be located. She adds that there would be shrubs in the area to serve as a buffer, and the patio would be used for lounging and dining. Mr. Mathewson questions the sound from the pool mechanics disturbing the neighbors. Ms. Friesema notes that this would not be a concern because there is enough of a buffer and the mechanics are not always running. Mr. Guildin adds that there are existing Evergreens that would add to the buffer on the property.

There is discussion regarding the fence height and placement of the fence on top of the retaining wall. Mr. DeCarlo notes that having a 6 foot tall fence on top of the 4 foot tall retaining wall, would trigger another variance condition. Mr. Guildin notes that the 6 foot fence was only proposed because they thought that was what pool code required. He notes he would be agreeable to putting 4 feet on the retaining wall if that is acceptable.

Chairman McGinley notes that a fence variance will be required for the proposed 4 foot fence in the front of the property. He summarizes the discussion regarding the other fence heights around the property, 4 foot on the retaining wall on the side property and 6 feet along the rear if the planting and fence were swapped.

Mr. Gaccione swears in John McDonough, a licensed planner, the board accepts him as an expert.

Exhibit A1 is marked into the record, as a 14 slide presentation titled Planning Exhibits prepared by John McDonough. Mr. McDonough continues by describing the characteristics of the property from different view points. He testifies that there are 2 types of relief the applicant is seeking. The first is the pool being too close to the street due to the shape of the lot, and it falls under the C1-A hardship standard. The second being lot coverage, the applicant is seeking 43.77 percent vs. the allowed 40 percent. He adds that this would fall under the C2 standard. He concludes that there was additional relief sought is for the 4 foot fence in the front of the property.

Chairman McGinley asks if anyone from the public has questions for the experts. Mr. Mike Toth from 28 Durrell Street, notes concerns about the runoff putting pressure on the retaining wall. He asks if anyone has looked at his property for run off issues. Mr. Stewart responds by noting there are storm drains along that side of the property and a large underground system in Rawding Court to collect water runoff. Mr. Toth asks if there would be extra pressure on the retaining wall from the pool. Ms. Friesema notes that pools are self sufficient and meant to collect water, and would not add pressure to the wall in anyway. Mr. Toth questions how anyone knows if the drainage pipes are working correctly. Mr. DeCarlo notes an inspection was conducted and the line is clear and free running.

Mr. Dennis Murray from 26 Durrell Street, asks how the pool is drained. Ms. Friesema notes that pools drained out and into the sewer system. Mr. Murray asks if there is a noise concern from the pool mechanics. Ms. Friesema stated that there is not, the mechanics would not be heard from his property. Mr. Murray asks if there is an ordinance related to how many occupants a pool could have. Mr. Murrays wife notes that there have been times where loud music has been a concern. Chairman McGinley notes that Verona has a strict noise ordinance that everyone is required to follow.

Chairman McGinley asks if anyone from the public has any comments before the Board deliberates. Maureen Toth from 28 Durrell Street, comments that Verona has rules and ordinances for a reason, she does not understand why a variance would be granted when a smaller pool could be constructed that would not require variances. She also notes concern for drainage onto their property, adds the wall on the property is a different color.

Mr. McDonough lists the variances being sought clearly for the records as follows:

1. From section 150-7.5 A, the minimum distance of a pool to a street, pool closer to the street than the principle structure
2. From section 150-17.4.D.4, the maximum lot coverage in the R-50B Zone, where 40 percent is the maximum allowed and the applicant is seeking 43.77 percent
3. From section 150-7.3B, 4 foot high fence in the front yard
4. From section 150-7.3D, can not have a fence within 10 feet of a front yard property

Mr. Gaccione notes that all may not have been included in the notice, but the catch all phrase in the notice justifies adding any variances.

Mr. Guildin makes a closing statement, adding his willingness to put more green space between the properties to alleviate drainage concerns.

Chairman McGinley asks the board if they have any concerns or comments regarding the above mentioned variances being sought. Mr. Liska notes that pool code requires the 4 foot fencing. Mr. Liaks notes that because of the lot shape there is not many options to have the pool be any further from the street, Mr. Weston agrees. Ms. DiBartolo notes concern that the pool is basically in the neighboring lots front yard.

Chairman McGinley asks for a motion to approve application 2020-09 1 Rawding Court, for the 4 variances being sought, and the following conditions.

1. Extend storm drain around the pool and patio
2. Shift the fence on the east side to be 3 feet from the retaining wall, and plant on the outside of the fence
3. Reduce pavers on the east side of the pool to permit more green space between patio and retaining wall
4. All pool discharge and backwash be directed into the storm sewer system, and not run over land

Mr. Lundy notes he was late to the meeting and will be abstaining from voting, as he did not fully hear the testimony.

Mr. Liska makes the motion to approve the application as stated. Mr. Weston seconds. Roll call is taken, All present voted in favor. Mr. Lundy abstained.

### **Hearing of Application 2020-10 for 21 Howard Street**

Chairman McGinley states for the record, he will be recusing himself from this application, due to his work relationship with Mr. Evan Scott. Therefore, Mr. Weston takes over the meeting.

Mr. Weston asks Mr. Gaccione if the notice was properly served for the application, Mr. Gaccione confirms it was in order. Mr. Ronald Newman and Mrs. Tara Newman, introduces themselves as owners of the property at 21 Howard Street. They continue by describing their intention of creating a 17 by 14 second floor deck off of their dining room-kitchen. They are seeking a variance of the rear yard setback.

Mr. Gaccione swears in Mr. Evan Scott as a licensed architect to present on behalf of the applicant. The board accepts his as an expert witness. Mr. Gaccione also swears in Mr. and Mrs. Newman for the record.

Mrs. Newman begins by explaining they have a split level house with their living space on the second floor, therefore they would like a deck to be attached to their living space off the second floor. Mr. Scott testifies that in Verona, the rear yard setback is 30 feet, he adds that the deck being replaced also did not meet the setback requirements. The new deck is 14 feet deep by 17 feet wide. He adds they are seeking a variance for 5 feet encroaching on the setback. He notes that the applicant is intending to obtain a portion of property that they are taxed for but was not included as part of their original deed.

Vice Chairman Weston asks what the view from the neighboring properties would be. Mr. Scott responds that because the property is on a hill, the neighbor above would likely be able to see down to their deck and the Newman's would likely see the other neighbor's yard from the deck.

Mr. Gaccione asks about the status of the suit to acquire the other portion of land. Mr. Newman notes they are still in early stages and it has yet to be formally filed with the court. Mr. Gaccione notes the Board should only consider the portion of the property that is currently owned for the purpose of this variance, and asks what the new proposed setback would be. Mr. Scott testifies the new setback would be 17 feet.

Ms. DiBartolo asks about the height of the deck in relation to the ordinance. Mr. DeCarlo notes that once it becomes a non-conforming structure the height limit is 4 feet. Mr. Gaccione notes they would require another variance for the height as part of the application. Ms. DiBartolo notes from the photographs the deck is already under construction and asks where in the process they are. Mr. Newman responds that they were unaware they needed variances, and hired a contractor who began work before they were informed they needed approval.

Mr. Gaccione states for the record that the notice included the catch all phrase so the Board can continue with the application with the additional variance.

Mr. Mathewson asks if any neighbors have approached them regarding the deck. Mr. Newman states his one neighbor asked if he would put some type of lattice up so that they would not be able to see over to their property, Mr. Newman was agreeable.

Vice Chairman Weston asks if any members of the public would like to speak regarding this application. No one from the public came forward.

Vice Chairman Weston asks for the Boards deliberation. Mr. Mathewson states he would like to see the lattice mentioned are part of the approval conditions. Vice Chairman Weston agrees stating he was also concerned about the deck height and views to neighboring properties.

Vice Chairman Weston asks for a motion to approve application 2020-10 for 21 Howard street, for the variance for the rear yard set back and height of the deck, and including a condition that lattice will be added. Ms. DiBartolo makes the motion, Mr. Lundy seconds. Roll Call was taken. All present vote in favor.

Vice Chairman Weston turns the meeting back over to Chairman McGinley.

### **Minutes & Resolutions**

Chairman McGinley asks for a motion to approve Resolution 2021-01 in the matter of Steven Cruz at 1 Cypress Avenue. Vice Chairman Weston makes the motion, Mr. Liska seconds. All in favor. Aye. No opposition or abstentions.

Chairman McGinley notes for the record there are no minutes for approval tonight, and there are numerous pending minutes to be approved. He adds that he had asked for recommendations for a professional planner on behalf of the Board regarding application 2019-12 Marve Development. He discusses what the Board would be looking for from this planner, and lists a few recommendations. There is some Board discussion on the application process and how it can be improved.

### **Adjourn**

Ms. Murphy-Bradacs makes a motion to adjourn at 10:47 PM.

Respectfully submitted,

Ashley Neale  
Acting Board of Adjustment Secretary

*PLEASE NOTE: Meeting minutes are a summation of the hearing. If you are interested in a verbatim transcript from this or any proceeding, please contact the Planning Board office at 973-857-4805.*