

**MINUTES OF THE BOARD OF ADJUSTMENT MEETING
Thursday August 12, 2021**

Present:

Chairman Dan McGinley

Mrs. Christy DiBartolo

Mr. Larry Lundy

Mr. Paul Mathewson, Alternate #2

Mr. Michael Piromalli, Board Attorney

Vice Chairman Weston

Mr. Pat Liska

Mrs. Genevieve Murphy-Bradacs

Mr. Mike DeCarlo, Assistant Township Engineer

Mrs. Ashley Neale, Board Secretary

Meeting called to order at 7:35 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 Secretary Mrs. Neale. Also present, Aaron Schragger from Bright View Engineering, the Township's Engineering firm. Chairman McGinley gives a brief over view of Boards responsibilities.

Approval Minutes

Chairman McGinley asks for a motion to approve minutes from a Special meeting held on July 29, 2021. Mr. Liska makes the motion, Ms. DiBartolo seconds. All present vote in favor.

Old Business

Chairman McGinley notes that at the July 29 Special meeting it was stated that there would be a settlement agreement regarding application 2019-12 for 251 ½ Grove Avenue. He explains the agreement has not been fully finalized and notes that the attorney for the applicant has submitted a letter requesting an adjournment to the September 9 meeting. Chairman McGinley reads the letter into the record. He asks for a motion to approve the adjournment, Vice Chairman Weston makes the motion, Mr. Lundy seconds. All present vote in favor.

Hearing of Application 2021-17 for 23 Hamilton Road

Mr. Piromalli swears in Cara O'Flynn and Adam Bell as owners and applicants of this property, and notes that proof of service is in order.

Ms. O'Flynn explains that their application is to replace an existing walkway on the property and construct a 16' x 20' patio to connect their driveway and walkway. She notes that current conditions on the property require them to walk across the yard to get to their driveway from the rear door. She notes that the variance requested is for impervious lot coverage, adding the property is already 0.8 percent above the maximum allowed, therefore any expansion would require a variance. She adds that they intend to install a 1,000 gallon seepage pit and that would mitigate any extra run off created from the patio. Photos of the property are shown and Ms. O'Flynn describes them and how they have to access their driveway.

Mr. Lundy comments in favor of the application, noting he lived on Hamilton and is aware of drainage issues. He asks the applicants if any of their neighbors have objected to the project. Ms. O'Flynn responds that they have not had any negative feedback from the neighbors. Chairman McGinley notes that one comment from the Environmental Commission asks if the runoff from the patio will be going into the seepage pit. Ms. O'Flynn states it the runoff will be going to the seepage pit. Ms. DiBartolo comments from inconsistencies from the survey to the pictures presented, and notes the new patio should meet the stairs. She adds that her feelings are that this area is over developed, but would be in favor of the application because of the addition of the seepage pit.

Chairman McGinley asks if anyone from the public has any questions or comments regarding this application. No one came forward. Chairman McGinley notes for the record that Mr. Mathewson is now present, and will be recusing himself from this application, since he did not hear complete testimony.

Mr. DeCarlo recommends making a condition that the applicant submit a more detailed grading and drainage plan for approval, to ensure the proper drainage from the patio. Chairman McGinley asks for a motion to approve the application with the above-mentioned condition. Mr. Lundy makes the motion, Ms. DiBartolo seconds. Ms. DiBartolo, Mr. Liska, Mr. Lundy, Vice Chairman Weston and Chairman McGinley vote in favor. Motion passes 5-0.

Chairman McGinley notes that Ms. Murphy-Bradacs is now present for the record.

Hearing of Application 2021-16 for 34 Linn Drive

Richard Schkolnick introduces himself as the attorney for the applicant, Cam Gar at Verona LLC. He testifies the application is to construct a 2-story apartment building consisting of two units, and an outdoor amenity space. The amenity space would include a fire pit, grill and seating area. He adds the application also calls for 6 additional parking spaces. He notes that the Board approved an application for the additional two units back in 2015, but they were never constructed. He adds the variance they are seeking is a D5 density variance, going from 14.65 units per acre to 14.99 units per acre.

Mr. Schkolnick calls Mike Roth of Roth Engineering, located at 52 Quail Run, Long Valley New Jersey, as an expert witness in Civil Engineering as the applicant's first witness. Mr. Piromalli swears him in and notes he has reviewed the notices and that proof of service is in order for this application. Mr. Roth briefly states his background and qualifications, and the Board accepts him as an expert.

Mr. Roth marks into the records Exhibit A1, dated 8-12-21, Existing Conditions Ariel Map. Mr. Roth continues by explaining the project site is located on 5.9 acres in the A1 Multi Family Low Rise Zone, with frontage on Linn Drive. He adds the project is proposing a new two-unit apartment building and improvements between buildings A10 and 12. Mr. Roth makes into the record Exhibit A2 Site Plan Rendering dated 6-18-21. He notes the new building will be two bedroom units and the proposed density is consistent with what was approved by the Board in 2015. He adds there are also proposed improvements related to the parking area. They are proposing an addition six spaces, one being handicap, noting that they are 9 X 18 and compliant with RSIS standards. He continues by noting that the current conditions of the complex include 252 units, requiring 464 parking spaces, and 421 are existing, proposed would include 254 units, requiring 468 spaces, and 428 are proposed, therefore decreasing the parking deficit.

Mr. Roth continues by explaining the outdoor space will consist of three small seating areas with a fire pit and a grill area. He adds that LED lighting proposed would have no light spillage off the project site. He notes there are proposed privacy fences around the outdoor spaces to help buffer views and noise from other buildings. He comments that the plans show 15 trees but they will provide 34 trees to replace those being taken down, these trees will be dispersed between the project site and other areas of the complex.

He continues with addressing storm water management for the property, noting the project results in a slight decrease in impervious coverage. He notes that a maximum of 75 percent is permitted and 45.2 percent is proposed. He adds the applicant agrees to provide a storm water dry well, which is a green infrastructure best management practice under the State's storm water rules. He testifies that the proposed dry well improves storm water quantity and quality for the site by temporarily storing the runoff and discharging it through infiltration into the sub soil.

Mr. Roth next explains the project proposed some disturbance on previously disturbed steep slope areas. He notes that these slopes are synthetic and were created when the prior development was constructed, adding most of the steep slopes will remain ungraded. He states for the records that the plans submitted called for 3,100 square feet of disturbance with those areas, but they will actually only be alter 1,275 square feet.

Mr. Roth continues by addressing comments letter from Township Officials. Starting with the Township Engineers letter with a revised date of 8-1-21, comment number 16 states the applicant will comply with the snow removal requirement for the handicap parking space. Mr. Roth notes the management company uses a service that plows and therefore they will comply with the requirement. He notes comment number 17, that there will be no change to the trash collection for the property and that they will be able to accommodate the new layout and trash is picked up twice per week. He continues by addressing comment 32 noting they are proposing 34 trees, which would include replacement trees for any damaged ones. He moves on to the Environmental Commission review letter dated 8-3-21, addressing comment number 1, they are proposing a storm water dry well to reduce runoff created by the project. Addressing comment number 4 he notes the applicant will accept the larger number and plant 34 trees as previously stated, so they would not have to hire a tree expert.

Mr. Schragger notes that there were additional lighting requirements suggested in their review comments. Mr. Roth notes in their response letter the applicant agreed to comply with the lighting requirements. Mr. Schragger asks for further comments regarding the dry well because both firms did not agree on the amount of impervious coverage that was calculated. Mr. Roth notes that they propose to take the roof runoff to the new drywell, the roof runoff being approximately 1,280 square feet. He adds that there is a net decrease in coverage of around 400 square feet.

Chairman McGinley asks if anyone from the public has any questions for this witness. No members of the public came forward. Mr. Piromalli swears in Mr. William Hamilton from 54 Horse Hill Road, Cedar Knolls New Jersey, as a professional planner on behalf of the applicant. Mr. Hamilton briefly states his background and qualifications, and the Board accepts him as an expert.

Mr. Hamilton explains the complex has an existing density of 14.65 units per acres and are proposing a density of 14.99 units per acre. He notes the ordinance standard for this zone is 10 units per acre, requiring a D5 variance. He adds they are required to show that the site can accommodate any problems associated with the use, even if the proposal does not specifically comply with the density requirement for the zone. He testifies that there will be a no change to the building setbacks, there will be minimal increase in the lot coverage, and there is minimal decreases in the improved lot coverage. He adds utility services are available in adjacent driveways and connections to the new buildings would be a minor. He notes they have limited the disturbance to existing vegetation and adjacent slopes and have provided additional parking. He comments that there is not real detriment to the surrounding area or zone overall, noting the proposal is consistent with a March 25, 2010 report titled Verona Hilltop Redevelopment Plan and Master Plan Update prepared by Kasler Assoc. for the municipality. He concludes by stating they believe that all statutory criteria for the D5 variance has been met.

Chairman McGinley asks Mr. Hamilton to elaborate on the public area being proposed. Mr. Hamilton notes that public area is proposed to bring the complex up to current standards seen in similar communities. Chairman McGinley asks if there would restrictions places on these spaces. Mr. Hamilton responds the space would be open to all residents of the complex. Mr. Mathewson asks if the 34 trees would be planted in the project area or throughout the complex. Mr. Schkolnick states the applicant would like some flexibility and would be willing to work with Township Officials to make a plan on the location of the trees. Mr. Liska asks what kind of trees would be planted. Mr. Hamilton notes they would meet the standard of replacement trees per the Township's ordinance.

Mr. Piromalli swears in Joseph Feldman from 16 Mircolab Road, Livingston New Jersey, as the Vice President of the property management company. Mr. DeCarlo asks if the parking spaces throughout the complex are numbered and assigned to individual tenants. Mr. Feldman testifies that there are no assigned spaces in the complex. Ms. DiBartolo asks if the tenants of the other building were required to be notified about this project. Mr. Piromalli notes that the only requirement is property owners within 200 feet, therefore tenants are not required to notice. Mr. McGinley asks Mr. Feldman if he was aware if the tenants in the surrounding buildings were notified of the project. Mr. Feldman states that they were notified about the project, but not specifically about the hearing tonight. Ms. Murphy-Bradacs asks if any tenants had given feedback. Mr. Feldman responds that all feedback has been positive and the tenants are excited to have a space they could use.

Chairman McGinley asks if anyone from the public has questions for Mr. Hamilton or Mr. Feldman. No members of the public came forward.

Chairman McGinley calls for a 5-minute recess from 9:01 to 9:06 PM. The meeting is called back to order at 9:06 PM.

Chairman McGinley asks if anyone from the public has any statements regarding this application. No members of the public came forward.

Mr. Schkolnick briefly summarizes the testimony given by the applicants experts. He reiterates the variances the applicant is requesting and notes they are willing to work with the engineer and Environmental Commission to address any concerns around replanting of trees and storm water.

Ms. DiBartolo asks Mr. Roth is moving the dumpster area could be arrange to fit one or two more parking spaces. Mr. Roth notes that based on the lay out of the parking area, they believe this is the best configuration. Ms. DiBartolo asks Mr. Feldman if the complex experiences any issues with parking. Mr. Feldman note that they do not, and in addition to the parking, they have 80 garages available for tenants.

Chairman McGinley asks the Board to deliberate. No members of the Board noted any concerns or objections to the density or parking variances. There was some discussion regarding the replanting of the 34 trees throughout the property and making it a condition of approval.

Chairman McGinley asks for a motion from the Board to approve application 2021-16 for 34 Linn Drive including Site Plan approval with the following conditions:

1. Applicant must submit a plan showing where the 34 trees will be planted on the property subject to review and approval by the Township Zoning Officer, with a copy to the Verona Environmental Commission
2. Applicant must submit a grading and drainage plan subject to review and approval by the Township's consulting engineer.

Mr. Liska makes the motion, Vice Chairman Weston seconds, and all present vote in favor. Motion passes 7 to 0.

Hearing of Application 2021-18 for 93 Lynwood Road

Mr. Piromalli swears in Michael Guglielmi as the owner and applicant. Mr. Guglielmi explains that the application is for them to construct a pool and pavilion in their back yard. He notes it would be on a second story, as there is a retaining wall that separates his back yard. He briefly lists the variances that would be required, including the pavilion exceeding 150 square feet, exceeding side yard setbacks for the pavilion, exceeding rear yard setback for the pool and exceeding the side yard setback for the pool equipment. He notes that they have owned the property for almost 6 years and decided they would like to have a pool for their children to enjoy.

Mr. Piromalli swears in Jeff Egarian, the engineer representing the applicant, whose business address is 271 Route 46 in Fairfield, New Jersey. Mr. Egarian briefly describes his background and qualifications for the Board and he is accepted as an expert witness. He notes the property consists of a 6-foot vinyl fence along both property lines and that the property slopes from front to back with the rear third being separated by a retaining wall. He adds that they are planning to install a 14 by 28 foot swimming pool with a 12 by 16 foot cabana with a pool fence along the rear yard. He notes that some retaining walls and minor grading would also need to be done to accommodate the pool in that area. He adds the pool equipment is planned in the ideal location for the property, and the fencing will block it from being viewed and heard from the neighbors. Mr. Egarian continues by noting they plan to incorporate a 500-gallon seepage pit, so there would be a zero net increase in storm water runoff. He explains that the rear property backs up to a condominium complex, with a road separating the property from another structure.

Ms. Murphy- Bradacs notes that there seems to have been many trees taken down and asks how many were removed and when. Mr. Guglielmi responds that they hired a tree company approximately a year ago to come and evaluate the trees and they determined that most were deteriorating and soil was washing away. He adds that the trees taken down were either dead or a potential issue to the house, and all necessary permits were obtained. Mr. DeCarlo comments that his office permitted for the removal of two trees on the property, and anything further

would have to be approved by the Planning Board. Mr. DeCarlo briefly explains the Township's tree ordinance, and there is some discussion regarding when and how many trees were removed from the property. Ms. Murphy-Bradacs asks if the trees were taken down in anticipation of the pool project. Mr. Gugliemi testifies they did not, the main reason was after a large storm they were concerned for their property. There is continued discussion regarding the tree removal permitting process and if the Board had the ability to condition this application to be in compliance. Mr. Piromalli notes that because the removal has already been done, the Board does not have the ability to make that a condition. He notes that if there were a concern regarding a possible violation, the Code Enforcement Officer would have to address it with the applicant.

Chairman McGinley asks about the accessory structure variance, and possibly reducing the size of the cabana. Mr. Gugliemi responds that he has discussed it with the company and the cabana could be reduced to 14 by 10 feet, resulting in 140 square feet, and no longer requiring that variance. He adds that shrinking the cabana would also bring them into compliance for the side yard setback of the accessory structure. Chairman McGinley asks if that would also reduce the lot coverage variance. Mr. Egarian answers it would, putting the coverage at approximately 41.6 percent where 40 percent is required. Mr. Liska asks if the retaining walls being two feet apart and having a fence on top would require another variance. Mr. DeCarlo notes that he would have to step the wall back by 3 feet for it not to be considered a continuous wall, or that would require another variance. Mr. Egarian comments they would have no problem moving that to be in compliance.

Chairman McGinley asks if anyone from the public has questions or statements regarding this application. No members of the public came forward.

Chairman McGinley goes through the variances being requested, noting that the applicant has agreed to reduce the size of the cabana making the side yard setback and square footage of the accessory structure compliant. Chairman McGinley asks if the pool equipment could be moved now that the cabana size has decreased. Mr. Egarian comments that it could be moved to a compliant location. Mr. Gugliemi comments that he would be agreeable to moving the equipment to decrease the amount of variances required. Vice Chairman Weston comments that he does not see a problem with leaving the pool equipment where they originally proposed. He notes it would have less impact on the neighbors than if it was moved to the west side by the cabana.

Mr. Piromalli lists the following conditions of approval for this application:

1. The applicant would agree to reduce the size of the cabana to 14 by 10 feet
2. All step retaining walls would be separated by a minimum of 3 feet to prevent an additional variance being required for maximum retaining wall height
3. A grading and drainage plan shall be submitted subject to the review and approval of the Verona Zoning Officer

Chairman McGinley asks for a motion to approve application 2021-18 for 93 Lynwood with the above-mentioned conditions. Ms. DiBartolo makes the motion, Vice Chairman Weston seconds. All present vote in favor, the motion passes 7 to 0.

Mr. Piromalli suggests that considering the time, the applicants for 21 & 25 Grove Avenue be brought on and given the opportunity to adjourn to the next regular meeting. Mr. Tuvel the attorney for the applicant notes they are agreeable to the adjournment to the Board's September 9 meeting, with no further notice being required. He notes the applicant agrees to waive all time constraints required under the Municipal Land Use Law. Mr. Piromalli notes for the record that meeting will be in person at the Verona Community Center, and if a special meeting date is decided, it will be announced at that time.

Hearing of Application 2021-14 for 261 Grove Avenue

Mr. Piromalli swears in Danielle Leonardo as the owner and applicant for 261 Grove Avenue. Ms. Leonardo explains that her application is unique in that the pool and deck have already been constructed. She notes that on

her property she has a 24 round 54 high salt-water pool with a 26 by 36 by 36 deck attached. Mr. DeCarlo explains that he was called and notified there was construction done on the property without proper permits, he notes that based off the survey Ms. Leonardo submitted they were able to calculate the variances that would be required. Mr. DeCarlo notes that she requires a variance for exceeding maximum improved lot coverage, she has 50 percent where 40 percent is required, she needs a variance for the side yard setback of an accessory structure 8 feet is required and she has 1 foot. He continues stating that she also needs a variance for minimum rear yard setback where 10 feet is required and she has 6 inches, and a variance for maximum aggregate area covered by an accessory structure she is currently at 44 where 15 is allowed. He adds the final variance being requested is for a swimming pool wall shall be no closer than 10 feet from a side or rear lot line and she is at 8 feet 6 inches.

Ms. Leonardo explains that the rear of her property where the pool is located backs up to a commercial property, therefore does not affect any neighbors behind her. Vice Chairman Weston asks her to describe her neighbor's property on the left that would be most affected by the pool and deck. Ms. Leonardo notes that her neighbors do not have anything on that portion of the property, and that she has spoken to them and they did not express any negativity regarding the pool and deck being where it was built. Ms. DiBartolo asks about the patio that is also on the property, she asks how it is used. Ms. Leonardo responds that they have a dining table and basketball hoop and her kids use it to ride their scooters, and the deck around the pool is was put in because her kids were jumping into the pool. Ms. DiBartolo notes that the deck is constructed around a tree. Mr. DeCarlo notes that the Construction Code Official will also have to inspect the deck once Ms. Leonardo has completed the application process with the Board.

Chairman McGinley asks if any members of the public have any questions or comments regarding this application. No members of the public came forward.

Chairman McGinley asks for Board deliberation, noting that no members of the Board expressed any concerns regarding the wall of the swimming pool being within 10 feet or the rear or side yard line. Chairman McGinley asks for the Boards thoughts regarding the rear yard setback being 6 inches where 10 feet is required. Mr. Mathewson notes that if there was an issue there would be no way to maintain the structures without having to be on someone else property. Ms. Leonardo notes that there is a commercial complex behind her property, with a pine tree buffer and parking lot. Ms. DiBartolo asks how many feet is the buffer between the parking lot and the fence, noting concern that cars would be aimed directly into the fence. Mr. DeCarlo notes that it is approximately 35 feet. Ms. DiBartolo comments she would like to see the depth of the deck reduced, agreeing with Mr. Mathewson about concerns regarding maintenance. She also expresses concern regarding the tree being covered by the deck. Mr. Liska expresses his agreement with Ms. DiBartolo. There is some discussion on moving the deck back so that the tree was no longer surrounded and the possibility of removing the tree. Mr. Piromalli explains the concerns of the Board and notes that it appears more information would be needed to continue discussion regarding this application. He advises the applicant on her options to adjourn the application to the Boards September 9 meeting, with no further notice required. Mr. DeCarlo suggests she submit a sketch to the Board with dimensions of the lumber, joists and headers. Ms. DiBartolo agrees noting that it would be helpful for the Board to see an actual drawing of the structure and its dimensions. Ms. Leonardo clarifies what measurements the Board is looking to see.

Mr. Piromalli states for the record that this application will be adjourned to an in person meeting on September 9 at the Verona Community Center at 7:30 PM with no further notice being required, and the applicant agrees to waive all time constraints under the Municipal Land Use Law.

Adjourn

There was a unanimous agreement to adjourn at 11:08 PM.

Respectfully submitted,

Ashley Neale
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 Board of Adjustment Secretary at 973-857-4777.