MINUTES OF THE VERONA BOARD OF ADJUSTMENT MEETING

Thursday September 14, 2023

Present:

Chairman Dan McGinley
Mr. Larry Lundy
Mrs. Genevieve Murphy-Bradacs
Mr. Pat Liska
Mr. Paul Mathewson
Mr. Kevin Ryan
Mr. Lou Russo
Mr. Diana McGovern, Board Attorney
Mr. Ten Kate, Engineer
Ms. Kathleen Miesch, Board Secretary

CALL TO ORDER

Meeting called to order at 8:03 P.M. by Chairman McGinley.
Open Public Meetings Act Statement is read by Board Secretary, Kathleen Miesch

Pledge of Allegiance

Roll Call is taken by Board Secretary, Kathleen Miesch

Approval Minutes

Chairman McGinley asks for a motion to approve minutes from the Regular meeting held on August 2023. Mr. Matthewson makes the motion, Mr. Liska seconds. Mr. Liska, Mr. Mathewson, Mrs. Murphy-Bradacs, Mr. Lundy, & Chair McGinley vote in favor. Mr. Ryan Abstains. Minutes are approved.

Old Business

1. **Resolution 2023-12, 28 Linden Avenue**: Chairman Weston makes a motion to approve the variance and Mr. Lundy seconds the motion. Mr. Ryan abstains. Mrs. Murphy-Bradacs notes that there is a typographical in the resolution, item 7, page 2 referencing an incorrect applicant. Ms. McGovern states that the typographical error will be stricken and corrected with the correct name. Motioners and seconders approve with the amendment. Board members present vote in favor and motion passes. Resolution is approved.

New Business

1. Application 2023-09: 64 Hillside Avenue

150-5.3 Yard regulations (3) Corner lot, frontage upon two streets. A corner lot having frontage upon two improved streets shall have two front yards, one side yard and one rear yard. The rear yard shall be located opposite the narrower frontage. The minimum side yard setback for such lot shall be 1.5 times the minimum yard requirement. In the event the two lot widths are equal, the lot shall contain two front yards and two rear yards. FAILED FOR ADDITION AND DECK

150-17.5 R-50 (High-Density Single-Family) Zone District.
D. (4) Maximum improved lot coverage: 40%. FAILED
E. Area, yard and bulk regulations for principal structures and uses shall be as follows:
(1) Minimum front yard setback: 30 feet. FAILED FOR ADDITION, DECK AND PORTICO
(5) Minimum rear yard setback: 30 feet. . FAILED FOR ADDITION AND DECK

Acting Board Attorney Diana McGovern swears in applicant. She advised that the legal notices both published in the official newspaper of Verona and sent via certified mailing to property owners within 200 feet of the subject property and determined that the notices were published and mailed in accordance with the requirements of the New Jersey Municipal Land Use Law and the board had jurisdiction to hear the application.

Mr. Par Anderberg and Mrs. Sabina Anderberg present their application for variances to add an addition, new deck, portico, walkway and stoop. Chair McGinley reviews why the initial permit application was denied.

Mr. Anderberg states that they have owned the home for 9 years and would like to expand for livable space. Looking for variances from the front and side yards. The property is a corner property, and any direction of expansion would require a variance. Mr. Anderberg also stated they are over the 40% impervious lot coverage which is verified by Mr. Ten Kate. Chair McGinley acknowledges that the property is a corner lot and any restructuring is more significant. The Chair questions why the variance is needed. Mr. Anderberg states that the house is as large as it can be presently without needing a variance. The least impact would be to go to the rear yard. The Chair questions the height of the building after new addition. Mrs. Anderberg references an exhibit of the proposed work (per Ms. McGovern this is not an exhibit as the Board members received a copy within their packet but in color). The new addition shows to be lower than the existing house at 19'3". Mr. Anderberg shows that the addition is lower, not by much but lower. Mr. Lundy makes reference to the lot coverage as standing out. Mr. Lundy states that the lot is undersized for the zone, referred to as a substandard lot, corner lot with two front yards. Chair McGinley advises that from the survey the setback is 6' and the applicants only have approximately 4'. Mr. Anderberg advised that he spoke with his neighbor on Forest Avenue where their house is 30 feet from them, and the neighbor had no opposition. The deck would be close to them, but an existing hedge would remain to cover site line. NOTE: the neighbor was not present to testify for or against at the hearing. Mrs. Murphy-Bradacs asked if the applicant had spoken to the neighbors. Applicant stated yes and all neighbors

responded favorably. Mr. Ryan asked whether the applicants had letters from the neighbors or if this was verbal. The applicants replied that the letter they referred to was the letter they sent to the neighbors. Chair McGinley asks if the finishes on the addition will match the existing home. The applicants verified that the finishes would match and will be vinyl siding. Mr. Ryan asked whether the applicants consider their house frontage to be Hillside, as is the official address, or Forrest. The applicants responded stating Forrest. The Chair stated that the Environmental Commission would like the applicant to make a statement regarding any tree removal. The applicant responded that there would be a removal and replacement of what works in the area and would be mindful of sustainability. The applicant works in the field. Mr. Ten Kate, Boswell Engineering, confirmed that if the lot was a conforming lot, the coverage would be 37.6.

Chair McGinley states that as there are no members from the public present, there will be no comments or questions at this time, and he closes the public portion of the meeting.

Mr. Liska asks if there is need to hear from the expert that the applicant has at the hearing, and the Board determines there is no need.
Board deliberations: Mr. Russo – we have reviewed dozens of these applications, he is good with application. Mr. Matthewson – good design, no issue with it fitting in with the neighborhood. Mr. Ryan – no issues. Mr. Lundy – the circumstances with lot could have been highly charged with nearness to neighbors; condition of the lot is highly changed for the neighbors; applicant should extend hedges and ensure existing remain; no issues with the application. Mr. Liska concurs.

Chair McGinley asks if there are any conditions to be included. Only conditions will those within testimony.

Chair McGinley asks if there is a motion to approve and conditions for this application. Mrs. Murphy-Bradacs makes a motion to approve the variance. Mr. Lundy seconds the motion.

The Board votes and it is unanimous in favor of passing: Mr. Mathewson, Mr. Liska, Mrs. Murphy-Bradacs, Mr. Lundy, Chair McGinley, Mr. Russo and Mr. Ryan. Motion passes & the variance application is approved.

Resolution will be drawn up by legal counsel and memorialized at the next meeting in October.

2. **Variance Application # 2023-11: 9 Brentwood Drive**

Per sections: 150 – 7.13 A & 150 – 17.5 E(2) the proposed AC unit doesn't comply with the minimum side yard setback of 8 feet with a proposed setback of 6 feet.

Acting Board Attorney Diana McGovern swears in applicant, Mr. Clifton Dunn and the Architect Thomas Baio. She advised that the legal notices both published in the official newspaper of Verona and sent via certified mailing to property owners within 200 feet of the subject property and determined that the notices were published and mailed in accordance with the requirements of the New Jersey Municipal Land Use Law and the board had jurisdiction to hear the application. Mr. Baio, 343 Millburn Avenue, Millburn, NJ has been architect for 32 years in

good standing. The Chair asked if Mr. Baio had appeared before the Board previously to which Mr. Baio responded yes. Mr. Baio is accepted as an expert witness.

Mr. Baio presented the application for variances to install a second HVAC condenser next to an existing unit in the side yard with a proposed 6-foot setback where a minimum setback of 8 feet is required. The applicant did a conforming addition which is now 80% complete. The condenser is in the side yard, the house is9 feet off the property line and the condenser is 8 feet. The second condenser would be 6 feet from the property line. Mr. Baio references photo one in the Board's packet. Mr. Baio states that the current condenser is on a 3'x3' pad and the intention is to make the pad 3'x6'. Mr. Baio Other locations where investigated, the front yard and the rear yard behind the porch or the other side yard with all three becoming incredibly burdensome on the fan coil to run the freon to the unit and this is the most suitable location and least obstructive to the neighbor. The new units are quieter and they are also replacing the old unit with a newer quieter unit to the benefit of the neighbor. Seeking a variance for two feet.

Chair McGinley reviews why the initial permit application was denied. Chair McGinley stated that this is existing non-conforming. Mr. Baio stated that yes, it is from when the applicant moved in. No variances were granted for the first HVAC unit. Mr. Ryan clarified that there were no variances for the existing unit and not the proposed unit. Mr. Baio verified and stated that the condenser laws were adopted 15 to 20 years ago. The current condenser is about 35 years old and may have been the original. Mr. Ryan concurred. Mr. Ryan asked if they had already removed the old condenser as he has driven by the site. Mr. Baio referred to pictures of the house. NOTE: These were not exhibits as they were included within the Board's packet. Mr. Lundy asked for clarification that the second unit was going behind the first unit if you are looking from the front and not next to the fence. Mr. Baio responded yes, behind the unit from the front view. Mr. Baio advised that the second zone came up during the contractor's review. They would not have needed a variance to replace the existing unit but adding the second unit triggered the variance. Mr. Lundy asked if there were any issues with the neighbors. Mr. Dunn stated that there were no issues from the neighbors. Chair McGinley asked if the Board had additional questions. Mr. Matthewson asked about the landscaping to cover view from the street as the unit seems to be in plain view and for masking of the noise for the neighbors. Mr. Baio stated that they were going to remove a tree, red Japanese maple, and extend an existing rock wall and shrubbery to screen the units. Mr. Ryan advised the applicant to review the newly adopted tree ordinance prior to removing the tree. Mr. Baio asked Mr. Ten Kate as the Zoning Officer would be categorize the tree as a tree or a bush. Mr. Baio would check with Zoning on the tree and will check new tree ordinance.

Chair McGinley states that as there are no members from the public present, there will be no comments or questions at this time, and he closes the public portion of the meeting.

Board deliberations – Consistency, concerns from neighbors and screening of units. Mr. Lundy stated that he doesn't believe there was a need to condition anything. Applicant's testimony of extending shrubbery and rock wall should be enough without specified conditions. Mr. Lundy concurred. Mr. Ryan asked if the newer units were quieter since the applicant is installing two. They are definitely quieter, and all come with a new decibel reading to verify noise. The applicant verified that the units are on the garage side of the neighbor's home.

Chair McGinley asks if there is a motion to approve this application. Ms. Murphy-Bradacs makes a motion to approve the variance. Mr. Ryan seconds the motion.

The Board votes and it is unanimous in favor of passing: Mr. Mathewson, Mr. Liska, Mrs. Murphy-Bradacs, Mr. Lundy, Chair McGinley, Mr. Russo and Mr. Ryan. Motion passes & the variance application is approved.

Resolution will be drawn up by legal counsel and memorialized at the next meeting in October.

3. **Variance Application # 2023-12: 48 Franklin Street**

150-17.3F(4) The maximum aggregate area covered by accessory structures in the yard they are located in is 15%. The site has an existing non-conforming rear yard coverage of approximately 20.2%. The proposed patio exacerbates this coverage to approximately 29.3%.

Acting Board Attorney Diana McGovern swears in applicant. She advised that the legal notices both published in the official newspaper of Verona and sent via certified mailing to property owners within 200 feet of the subject property and determined that the notices were published and mailed in accordance with the requirements of the New Jersey Municipal Land Use Law and the board had jurisdiction to hear the application.

Mr. Frederick Foy and Mrs. Dianne Foy presented their application for variances for a 20' x <20' block patio, 390 square feet in the rear yard adjacent to existing shed and pool to avoid mud into pool. Chair McGinley reviews why the initial permit application was denied. Chair McGinley expressed concern that maximum impervious coverage in the rear yard was already 15% over and the applicants are looking to go over 30%.

Mr. Foy stated that the two sheds that are there have existed there for over 30 years when they moved in. Mrs. Foy stated there is a pool that they received a permit for that it seems they should not have received a permit from the town. The applicant suggested that there was a story to his application. Ms. Murphy-Bradacs asked what he was referring to and the Board members agreed to hear what previously occurred with the property. The applicants obtained a pool permit from the Township, Mike DeCarlo, and constructed a pool at the cost of $18,000. To level it, electrical, etc. which was completed in October of 2022. Covered the pool and opened for the season in spring 2023 and determined they needed a patio by the pool. The Applicant completed all the paperwork for Boswell Engineering and it came back as good but they were told you went over 400, you need to redo your plans and come back under 400. They revised and came back at 391. After two weeks the Applicant reached out and was told that there was an issue and that the pool permit should never have been issued. When they went to the town for a permit for the patio, they were advised that they would need a variance for the patio but also for the pool as it had increased their impervious coverage of the allotted amount and should not have been given a permit. The applicants had a permit for the pool so it was determined that they would not need to obtain one for the pool, only the patio. The applicants then advised that they were asked for an escrow fee of $750.00 48 hours prior to the hearing, or they would be pulled off the agenda. The applicant voiced their displeasure

with the processes regarding billing and escrow, and also their experiences with the entire permitting process and experience. Chair McGinley stated that we would move forward in a much better light. Chair McGinley advised that he was advised regarding the fees at the same time that the applicant had been and that the Town Manager would pull the application. Chair McGinley advised that he informed the administrative staff that the application would not be pulled. He stated that the fees need to be submitted however expressed frustration with the applicant's predicament. Mr. Lundy asked if the neighbors were okay with the proposed patio. Mr. Foy stated the neighbors were good. Mr. Mathewson asked what was existing on the property now. Mr. Foy verified that the sheds, deck and pool are all existing and it is only adding the patio. Mr. Ryan asked what materials would be used for the patio. Mr. Foy stated the patio would be block pavers.

Chair McGinley states that as there are no members from the public present, there will be no comments or questions at this time, and he closes the public portion of the meeting.

Board deliberations – Mrs. Murphy-Bradacs stated that the applicant had made their case and it was disheartening to know that someone at the town approved something that shouldn't have been approved to the detriment of the applicants. They acted in good faith and it would approved significant hardship if we did not approve the application. Mr. Lundy stated that the applicant has suffered enough, and he was embarrassed for the town after sitting on the Board for over 30 years. Mr. Russo seconds that. Mr. Ryan referenced the over coverage being discovered after the pool was installed with a permit.

Chair McGinley asks if there is a motion to approve this application. Mr. Lundy makes a motion to approve the variance. Mr. Russo seconds the motion.

The Board votes and it is unanimous in favor of passing: Mr. Mathewson, Mr. Liska, Mrs. Murphy-Bradacs, Mr. Lundy, Chair McGinley, Mr. Russo and Mr. Ryan. Motion passes & the variance application is approved.

Resolution will be drawn up by legal counsel and memorialized at the next meeting in October.

Adjourn

Chairman McGinley makes a motion to adjourn. There was a unanimous agreement to adjourn the meeting at 9:00 PM.

Respectfully submitted,

Kathleen Miesch
Verona Township
Secretary – Board of Adjustment

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 Zoning Office at 973-857-5246.