MINUTES OF THE VERONA BOARD OF ADJUSTMENT MEETING

Thursday, October 12, 2023

Present:

Chairman Dan McGinley
Mrs. Christy DiBartolo
Vice Chairman Scott Weston
Mr. Kevin Ryan
Mr. Robert Gaccione, Board Attorney
Mr. Ten Kate, Engineer
Ms. Kathleen Miesch, Board Secretary

CALL TO ORDER

Meeting called to order at 8:22 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 September 14, 2023. Mr. Ryan makes the motion, Chairman McGinley seconds. Mr. Ryan and Chairman McGinley vote in favor. Vice Chair Weston and Mrs. DiBartolo abstain. Minutes are approved.

Old Business

Resolution 2023-13 – 64 Hillside Avenue

1. Mr. Ryan makes a motion to approve the variance and Chair McGinley seconds the motion. Vice Chair Weston and Mrs. DiBartolo abstain. Board members present vote in favor and motion passes. Resolution is approved.

Resolution 2023-14 – 9 Brentwood Drive

1. Mr. Ryan makes a motion to approve the variance and Chair McGinley seconds the motion. Vice Chair Weston and Mrs. DiBartolo abstain. Board members present vote in favor and motion passes. Resolution is approved.

Resolution 2023-15 – 48 Franklin Street

1. Mr. Ryan makes a motion to approve the variance and Chair McGinley seconds the motion. Vice Chair Weston and Mrs. DiBartolo abstain. Board members present vote in favor and motion passes. Resolution is approved.

Resolution 2023-16 – Board Secretary – Kathleen Miesch

1. Mr. Ryan makes a motion to approve the resolution appointing the Board Secretary and Mrs. DiBartolo seconds the motion. Chair McGinley and Vice Chair Weston vote in favor. Board members present vote in favor and motion passes. Resolution is approved.

New Business

Variance Application # 2023-13: 170 Grove Avenue; Block 1403, Lot 91 – Martin Silecky & Mrs. Julie Parker

The site contains 3 dwellings, identified as Units A, B and C. The site contains 2 detached garages identified as Units D and E. Three (3) homes on one lot is an existing non conformity. As per Section 150-13.3 A a variance is required for the expansion proposed. As per Section 150-4.2 A a variance is required for the expansion proposed. As per Section 150-4.2 G a variance is required for the expansion proposed. The proposed improvements to the home, Unit B are conforming to section 150-17.3 for all applicable requirements except for the following:

As per section 150-17.3 F (6) a variance is required. The applicant is proposing a building height of 32.5 feet versus the 30.0 foot maximum. The proposed improvements around the home, Unit B are all conforming except for the following:

As per section 150-7.13 B a variance is required for the generator proposed within the side yard.
Storm water management is exempt since there is an increase in 386 square feet of impervious coverage. This is just under the 400 square foot threshold that would have required same. The applicant should testify to any tree removal. If trees are to be removed, they shall be mapped with diameter size indicated.

Engineering review and approval will be required for this application should it receive Zoning Board of Adjustment approval for the soil movement/regrading proposed.

Board Attorney Robert Gaccione swears in applicants Julie Parker and Mark Silecky, Mr. Michael Petry, Engineer/Planner and Mr. Gianakopoulos, Architect.

Applicant, Julie Parker states that she is one of the co-owners of the property at 170 Grove Avenue with her husband Mark Silecky who is also present. Ms. Parker states that they are proposing a renovation on the middle house on this property. It is an unusual property in that it has three single family homes.

Mr. Gaccione asked is all the houses on the property are the applicants'. Applicant Julie Parker response is "Yes, they are, they are on one lot". Mr. Gaccione 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. Gaccione states that based on his knowledge of Mr. Petry, who's testified on my cases at least ten times, he certainly qualifies as an expert field of engineers. Chair McGinley verifies that Mr. Petry is a professional Engineer and professional Planner. Mr. Gaccione asks if Mr. Petry's licenses are in good standing. Mr. Petry replies - They are, yes.

Mr. Petry - The subject property is located in along Grove Avenue, in an east west direction. It is located just down from the school. The property is located approximately 170 ft. east of the intersection of Grove and Dot Terrace and it is further identified as 170 Grove Avenue. Grove is a county road with two way traffic that in this particular location runs east west. It is located in R-60 zone. Mr. Petry uses a chart that is the Verona zoning map super imposed on it, and the Verona tax map as well, with the subject property and everything in the immediate area. The R 60 zone requires 7200 sq ft. of area for each lot and a 60 foot lot width. Mr. Petry the property is roughly a rectangular in shape. It's got a hundred feet of frontage along Grove Avenue and varies from 459 to 523 feet deep. It contains a total of 1.11 acres. The subject property is more than six times the size of what is required in the zone in terms of lot area. It's important to note that the subject property in this matter is unique in that the lot currently contains three single family houses. One located in the front, a second in the center, and a third in the rear of the property, as well as two free standing garages. They are referred to as Units A, B and C

are the houses and units D and E are the two garages. We are seeking a variance because we are here to expand the center house on the subject property. There are a series of variances that are required for deviations from the ordinance. Houses on this lot is already a deviation from the ordinance. There is a single driveway that leads up the bottom of the property that services all of the parking for the three homes. The property does slope from the rear towards Grove. There's a high elevation in the rear a little bit above 370. The front is a little under 343, - there's a fairly significant differential from back to front. There is a variation in grade there from 358 to 351, it's actually about 7.2 feet differential. The house that is subject is in the center of the site and well in excess of the front yard, rear yard and aside yard setback. The setbacks, the front yard is 254.5 feet from Grove, where 30 feet is required. The rear yard is 163.9 feet where 30 feet is also required. The side yard setback is 28.9 feet, where 8 feet is required and the combined side yard is 60.2 feet where 18 feet is required. There are no variances required for the setback. All of the work happens on the center unit. Applicant is not touching front, back, or the garages. Seeking only variances as it relates to Unit B. Construction of a two story addition to the southerly portion of the building, a one story wrap around porch. There are also proposed improvements that are going to reduce the impervious coverage by eliminating several concrete pads, some walk ways and eliminating some driveway and a shed. The building coverage is going to increase from 8.9 % to 12.3 % where maximum 25% is permitted. The proposed improvements to this building will also meet the bulk standards. Existing retaining walls that are in front of the home to be removed. The proposed improvements on the site will increase impervious coverage, but because of the reductions that are proposed in the areas the increase in impervious is only 386 sq ft. so there's a stipulation for minor developments in the ordinance that if the increase in impervious is more than 400 sq ft storm water management is required so that issue doesn't have to be addressed. The existing impervious coverage on, site is 28.2 %, while proposed increases to 28.9 % the ordinance permits 40 % in this particular zone. There is a maximum building height in this zone of 30 feet and 2.5 stories. The existing unit B has a height of 21.6 ft. and the proposed building has a height of 32.5 ft. It's two and half stories so a variance for building height is needed. A generator on the right side of the dwelling is also proposed. The generator is required to be in the rear yard. It is in a side yard so that requires a variance. There is no requirement in the ordinance for storm water management. The current storm water flows through the property to Grove Avenue - not changing that drainage pattern. They will follow the exact same pattern, pitching towards. There some regrading around Unit B; due to removal of the retaining walls.

Mr. Petry recaps: The subject property has three homes on the lot and that's not permitted by ordinance, but those three homes have existed since at least the county topo maps that were shot in the 1950s. Applicant is proposing an addition to one of those houses and that addition, conflicts with three separate sections of the ordinance relating to uses that don't comply. A height variance is also sought as 32 ½ feet instead of the 30 feet that is permitted by ordinance. A variance is sought to have the proposed generator in the side yard rather than in the rear yard. From a Planning perspective, it's Mr. Petry's opinion that the variances can be considered under the C 1 criteria and one or more of those can also be considered under the C 2 criteria. It is an existing condition on a site that is unique to the township. We're expanding one of those homes that by its very nature is not permitted to be there because there are three units. Regarding the building height, this property has a significant differential from back to front. There is a great differential from one side to the other of 7.3 ft. The ordinance requires us to evaluate height based upon the average grade around the building at ten foot intervals to the highest point of that building. There are points in the back that are 7.3 ft higher than that, so we have a differential in the grade. The average grade is 4.3 ft below the finished floor elevation of the existing house. If we average in these existing grades versus the existing grades that are at the house we're coming up with a much lower average elevation. The house that sits closest to Grove Avenue has an established height of 32.4 feet. This house sits behind it 32.5 ft. I would guess that the roof slopes on those two houses are somewhere between ten on twelve to twelve on twelve so they're steep roofs. The architect will discuss in his presentation is that his proposed home has a seven on twelve roof pitch. We came up with a slightly lesser pitch on the roof than what is on the existing home in the front and the home next door, so that we could get closer to the ordinance requirement and closer to what exists on this property. Mr. Petry offers that the height variances can be considered either under a C-1 based upon the existing topographic conditions on the site where this building is located, or it can be considered under the C-2 because the aesthetic of the roof is a significant element when evaluating it in the context of the Grove Avenue corridor. When you look again at the architects plans, from finished floor to the peak of the roof, this building is 28 feet 4 inches. The topography drives this. The final design is both reflective of the area and appropriate for this particular location. Reflecting a craftsman style. The roof pitches seven on twelve there's only a small percentage of this roof that actually exceeds the height requirement. A change in the roof could accommodate the height requirement, but would be out of characters to neighborhoods. Regarding the location of the generator, the location shown

on the plans immediately to the right of the houses is appropriate. Its located 156 feet from the house that it's closest to. It is 90 feet behind the garage of the house that is located next to. The intent of the ordinance was not to have a generator in a location where it would have a negative impact on the house next door. There is significant separation between the home next door and the garage next door. From an operational perspective, to put this in the rear yard means to put it behind the rear unit, that's the rear yard, you can't have a generator that far from the house and have it have it work. It needs to be close to the electrical service so as that variance can be considered under A-C 1 standard. Where the location of the existing structure drives the need for the variances, the proposed overall aesthetic. Of the home is significantly improved, and the proposal advances purposes C-E-G and I municipal land use law.

Item C relates to providing adequate light, air, and open space, the fact that the site is more than six times what is required by ordinances and utilizes less than half of the allowable building coverage and only 72 % of the allowable impervious coverage is indicative of the fact that this is not an overly developed property, but rather an appropriately developed property with substantial open space. Item E relates to appropriate population densities by lot size. This property would accommodate six units according to the ordinance. The existing three units represent half of that density that is permitted. Item G relates to providing sufficient space in appropriate locations for variety of uses in this instance, the subject property has a long history of accommodating three residential unit, do not want to increase that number of uses just improve. Item I relates to the promotion of a desirable visual environment. The look and style of this building keeps with the style of the neighborhood, but an improvement over what currently exists. No detriments associated with the improvement that are proposed.

If these three buildings were to be removed and a single structure built here it could be built 8 feet off of the common property line. We're proposing the main portion of the structure is over 30 ft.; the porch is 26 ft, we're proposing here provides virtually a rear yard setback to those homes. With regards to the negative criteria - the property has been in a similar use for decades and has coexisted with the neighborhood. The number of uses is not increasing, only increasing the size of the structure associated with one of the homes. Regardless of if the variances are considered under a C 1 or a C 2 or both any potential impact to the public good, as well as any impact on the zone plan or zoning ordinance needs to be assessed. Given the limited work being performed here, in the location of that work within this substantial property, I believe that the application poses no substantial detriment to the public good with regards to his own plan and zoning ordinance doesn't allow multiple homes on a property, this already exists and only want to improve, I don't see any substantial impairment to the intent and purpose of the zone plan or the zoning ordinance as it relates to this application.

Chair McGinley asks if anyone in the audience has questions for the Engineer/Planner regarding the plan. Seeing none, does the Board have questions?

Vice Chair Weston askes Mr. Petry in your professional engineering opinion with the added and impervious coverage and the removal of the retaining wall, how would that impact the storm water management and just rain water, flow of water on the property. Mr. Petry responds that the net increase because we have proposed the removal of a good deal of driveway, walkway and shed and some concrete pads, the net increase is only 386 sq ft. and most ordinances, including Verona's new ordinance for storm water management use, that it's insignificant. The overall impact on storm water runoff is insignificant, it's going to end up draining from the same county system it goes to today.

Mrs. DiBartolo - Do you anticipate, just based on the increased size of the house, the infrastructure needing to be upgraded? Sewer line? Mr. Petry The standard sewer line from a residence four inch diameter pipe and that sized pipe can generally carry probably 20 times what a house can produce in many instances you can look two houses up to a four inch line and still have plenty of capacity. I don't see that as being substantial. Current code may require an upgrade to the water service. Given the age of the house it could be and if it hadn't been upgraded over the years it could be a ¾ and increase to an inch, but not a significant lift.

Chair McGinley - Are there any other questions from Board? Is there anyone from the public that would like to ask a question of the Engineer\Planner? There will be an opportunity toward the end of the hearing, or anyone from the public to make a statement.

Mr. Gaccione - two questions the picture. This lot is six times the size of the normal lots in the area, or the required lot in the area Mr. Petry - required lot size. Mr. Gaccione - You've got three houses on it, being six times the size, I assume there is no density issue with having three houses on it, correct?

Mr. Petry - That, that is my position. We're half of the number of units that's permitted by ordinance.

Mr. Gaccione - Second question. You have a non-conforming situation which you testified to, and it's your position that these non-conformities are residential and therefore this can be handled as a C application as opposed to a D.

Mr. Petry - That is my opinion. I believe it's shared by the preparer of the letter of denial.

Mr. Gaccione – I wanted to put both those points on the record.

Mr. Ryan – Mr. Gaccione, for those of us who are not of the legal establishment, the information that you wanted to get on the record …

Mr. Gaccione – There are two potential issues. If this was a violation of use, you would need a D variance. D variance requires five Board members to vote in the affirmative. We only have four board members voting on this I want to make it clear that, in the opinion of the planner, it is not a D various to the Board members so can vote on the application. The same thing with the density. That could be a D variance also, and I want to make that clear, that because the Planner knows the lot is 6 times the size of the required plot that three houses on it does not create a density variance, so those two variances would be in the D category, and that D category requires five affirmative votes no matter how many members are voting.

Mr. Ryan to Mr. Gaccione – In your professional opinion, so you accept his argument as being valid.

Mr. Gaccione – He put it on a record, and I accept what he says. It is not my job to reach a conclusion of that nature. Mr. Petry is very experienced, very competent, and that's his opinion, and I really don't disagree with it.

Mrs. DiBartolo – follow up question - in the denial letter, it does say that variance required or 13.3A which is the use. Given that this is in the denial letter, how do we proceed with that?

Mr. Petry - 13.3A says variance required for the expansion of a proposed … not expanding a non-conforming use, it's expanding a non-conforming structure. In my opinion that's not a use variance the 150-4.2A says a s a variance required for the proposed expansion. That section of the ordinance pretty much says you can't expand an existing non-conforming use. That's not the case here we have a use that's permitted we should have more of them that's allowed and that's where 150-4.2 G comes in because 150-4.2G. says that you can only have one house on a property. It's not a use variance, is it a density variance? Not in this case, because in this case we have a lot size that accommodates, that could complete six by density

Mrs. DiBartolo - When you say use, you're just stating a single family use, as opposed to multi-family with housing. Mr. Petry - while it has multiple units on the property, each house is a single family. If it were three separate, single family uses, we're not making a four, we're still making, and we're still keeping three. So in my opinion, I don't see it as a use variance.

Mr. Gaccione states that Mr. Petry's opinion appears to be that, although only one principal use can be on a lot, his opinion is the principal use is residential and therefore this can be heard as a C variance as opposed to a D

Mr. Ten Kate to Chair McGinley - I would agree that.

Chair McGinley – The Engineer concurs, the Architect concurs, another engineer concurs, Mr. Ryan do you concur?

Mr. Ryan -I'm not an expert in what the C and D criteria are, which is why I asked Mr. Gaccione for a lay explanation, of the distinction between the two of them and I'm satisfied. We hire the engineering company and the attorney to provide us guidance am I correct in the in these areas so I'm satisfied with the guidance they have provided.

Mr. Gaccione - So everybody has my key concern is that it's a C application because we don't have enough people to vote a D, and Mr. Petry's argument is that it is a C application that the Engineer supports that and I certainly think it's logical. It is not my job to give Planning conclusions, but it's logical what is being said.

Mr. Ryan - Anyone can always file a subsequent court case to challenge that interpretation but they would be not on good grounds in your opinion.

Mr. Gaccione - Challenges are few and far between; very time consuming, expensive. The amount of appeals that occur today compared to the amount of zoning appears that occurred appeals occurred 30 years ago is dramatically different. It's unlikely it's going to be a filed. We have Mr. Petry's opinion to rely upon a very competent Planner and Engineer,

Chair McGinley - The Zoning Board is where we get to make the decisions for unique properties.

Mr. Petry - The architect is here and he can briefly describe his plans. I have nothing further at this time.

Mr. Ryan – A question in reading over the comments from the different town experts and specifically the letter from Boswell Engineering, I just want to make sure I understand this properly. An Engineering review would, if we approve the variances, and engineering review would still then have to be done is that correct?

Mr. Ten Kate – Yes, if it's approved and the variance is approved, it goes for a Building permit and then we review the site conditions as part of the building permit submission

Mr. Ryan - Mr. Petry presented himself as a planner, I believe he might be also be an engineer, which is just why I raised that particular question.

Mr. Gaccione – most approvals of the drainage plans occurs in numerous situations

Chair McGinley – Mr. Petry we did have a letter from the Emergency Management Chief Joe Martin and to confirm that the Engineering/Planner – A Professional to concern is that the access for first responders, fire engines, and ambulances hasn't been compromised or will change, or it has not changed.

Mr. Petry - The turnarounds are still there all. They will be K turns, but they can turn around in that driveway yes.

Architect - Keith Gianakopoulos, registered Architect in state of New Jersey since 1996. Pratt Institute 1992. Practicing architecture since 1992 on Studio G2 Architects 2002 to present.

Chair McGinley - Credentials as an Architect accepted.

Mr. Gianakopoulos - Mr. Petry gave an overview so some information may be repetitive. He will focus more on the Architecture and the site. The existing house is 1447 sq. feet, a two story house, with four bedrooms and two bathrooms. On the plan submitted, there is a basement, first floor, and second floor plans, which show the existing layout. In talking to applicants, the idea was to maintain what we could of the existing structure given the site constraints. The expansion is proposed south, which goes downhill so that does aggravate the height issue, because we're sloping at least at 7.2 feet south. The expansion south was the only way to really expand the house comfortably without encroaching the driveway or encroaching the neighbors on the other side. The east side is the quote unquote backyard of the house although it's not the backyard it's a side yard. The deck is proposed in the rear yard of the house but it's really the side yard so that's why we didn't expand any to the side. The first floor, you'll see the, the existing walls, and then the proposed walls. Far the new walls, the three sides are the existing house, and we're expanding it toward Grove with a great room, living room, kitchen, den and a little mud room, dog bath area. The mud room gives an anchor to the wrap around porch. To bring the scale of the house down to the driveway level - it really steps down the roof lines. The idea is not to have one big continuous long roof. The second floor, is three bedrooms, a primary suite and two additional bedrooms with bathrooms in each one and a large walk-in closet. Stairs to the attic. The basement is going to be a wreck room, finished bar and powder room. The upper floor you'll see the attic, the dash lines is where the roof comes up and flattens. 345 sq ft in area in the attic combined for a total 3826 of square footage.

Mr. Gaccione - I want to interrupt, I reviewed the ordinance and I don't think you can complete the case tonight. Mr. Petry please review 150-4.2G which was citing in the letter denial that was called to our attention a few minutes ago.

Applicant – Julie Parker - Referencing that section if you're talking about the uses, that was actually discussed very early on with the Zoning Officer at the time. If you look at 150-17.3, it clearly says that the allowable uses are home"s" plural. That's an inconsistency that's written in but it does use plural homes

Mr. Gaccione – I would like to hear from Mr. Petry.

Applicant – Julie Parker - I'm a retired attorney. I can give my credentials if that matters, or Mr. Petry can speak.

Mr. Gaccione – I would rather hear from Mr. Petry.

Mr. Petry - I have read 150-4.2G as it states number of principal residential structures per lot is restricted. Every residential building or residential structure hereafter erected or structurally altered shall be located on a lot and in no event, except in case in the case of garden apartments, apartment buildings, and planned developments, shall more than one principal building for structure and its accessory structures be located on one block. In my opinion, we have three structures on the lot. We're not asking for a fourth. We're not expanding the number of structures on the lot, we're expanding the size of the structure. In my opinion that's not a …

Mr. Gaccione – Counselor – to Applicant – now you can argue

Applicant – Julie Parker - I agree with Mr. Petry, I'm simply saying that, as far as use, home's' plural is what is listed as an allowable use. So we're essentially acknowledging this as a preexisting non conformity of the three single family homes on this lot and it is an allowable use.

Mr. Gaccione - no question for existing non conformity use. However, you can't expand the pre-existing nonconforming use without a D variance. I believe Mr. Petry will agree with that unless you want to argue that point.

Mr. Petry – I read it differently. I continue to read it differently. I understand that this specific section says 'or structurally altered'. Mr. Gaccione states that that is the key language. … but I think this is an article in the regulations, and it speaks to an expansion. I don't see this as an expansion.

Mr. Gaccione – Asks … So you're saying *structurally altered* would only refer to an expansion, and there's no expansion taking place here. Mr. Petry - correct. No new units, Mr. Gaccione - no square footage is being added? Mr. Petry - adding square footage but we're not expanding the use, it's still a single family use in this structure. If there's a concern, I think that we can complete our case and we can ask for a fifth board member to listen to the …

Mr. Gaccione - I don't want to make a recommendation to Board. You've heard everything I've said, everything that's been said, the question before you is, do you want to complete the case as the C or would you prefer to have the decision made when we have five or more members present to vote. If anybody has a question to me, I'm happy to try to answer it, it's a very close question I do agree.

Mr. Ryan - Which is why I sort of asked you to expand on it in the first place. It is a gray area, if I understand you correctly it's just that the D just requires more members to be present

Mr. Gaccione - Absolutely correct.

Mr. Ryan - it wouldn't prejudice the outcome

Mr. Gaccione - No, absolutely would not Okay.

Mrs. DiBartolo - Asks for an example of a single, family residential use that is expanded?

Mr. Petry - It can still be a single family residence if you are expanding for space. You're not expanding a bedroom count for instance. That is not considered an expansion in my opinion because you haven't increased the number of bedrooms. Bedrooms are utilized to determine sanitary sewer flow. Because the treatment plant has no capacity, and it's capped If one has a residential unit that is three bedrooms and expands it, if two bedrooms and expansive to three that's considered an expansion because it increases flow.

Mr. Ryan - To Mr. Petry - You're saying if you're increasing the size of the rooms, but they're not the number of rooms themselves. R. Petry - actually decreasing number of bedroom Mr. Ryan …but just increasing the size of that. Mr. Petry - Correct

Mrs. DiBartolo - This is just all, all terminology, all interpretation of terminology?

Mr. Gaccione - I think this is a situation where I've said about as much as I need to say, I think the Board needs to decide whether they want to proceed with forum or wait until we have an additional member to complete the case. That additional member would have to look at the recording.

Mr., Ryan - Mr. Chairman, do you have an opinion I'm going put you on this message,

Chair McGinley - I do have an opinion. I would also be of the opinion that it's okay to continue as a C variance. This is written as legally as they can get where the word hereafter seems to apply. There are already three residences on this property, on this lot. We're not changing the use, in my opinion these are three residential structures on a single lot and in this case our definition of use is not being changed. It is being structurally altered but I think they're still looking at this as not putting more than one building one structure on a lot. One residential structure on a lot,

Vice Chair Weston - I can give an example of clear up for me, well, let's say we have an existing non-conforming use called a bar that was on a on a property that was covering 10 % of the property and they wanted to now cover 90 % of property with that bar.

Mr. Gaccione – That would be a D variance

Vice Chair Weston – How would that be different for this?

Mr. Gaccione - I can't make any arguments I don't, want to argue it, I just want to make sure the board understands it. I spoke to Mr. Petry before the case started about my concerns

Vice Chair Weston - what is the risk with moving forward would be that if someone would appeal on the grounds that it was D variance and you didn't have enough people to vote

Mr. Gaccione - That's it. We have interested citizens here for sure, I don't know what their concern is but you might want to hear what they have to say before you make a decision, and

Chair McGinley - the decision, in this case, would be the Applicant's decision, correct

Mr. Gaccione - Well, it's the applicant's decision, or to voice decision, the Applicants say, I want to go ahead anyway, you could say, we don't think it's a C variance or we're not voting on it. That's it. It's a very tangible issue, very complicated, but if we had a fifth member here would be a non-issue.

Mr. Ryan - when I raised that issue initially, it was sort of, I was sort of skirting around that thing but it's just, these people are here. I appreciate the time and the expense that they go through that everybody plan and my only concern would be in really in terms of litigation. I don't have any problem you know stating my own opinion as to whether or not this is a viable variance, as we were, it brings to a very technical area here, so if, I guess, the applicant they obviously feel comfortable, you know, proceeding with their presentation, especially since you did inform us that Mr. Petry was aware that this could possibly come up. I guess the other members how, how do you feel about just proceeding as a C? Chair McGinley responds I think I am comfortable proceeding as a C

Vice Chair Weston - I am but I would also reserve to hear the rest of the testimony or what's not before me Mr., Gaccione - that's completely a different issue whether you favor the application or not.

Mr. Gaccione - The only thing I care about is the legal issue, that's all. So if everybody wants to go ahead, you certainly can. If they think somebody probably feel, which I assume is very unlikely

Mrs. DiBartolo - in my experience I've seen, the word use and structure like use kind of interchangeably. It depends on the municipality as to whether or not they're going to zing you. If that's Mr. Petry's interpretation and he still wants to proceed with that. Then I'll go with that, but I have seen him go both ways.

Mr. Ryan - I don't think it would change my opinion one way or the other I mean that's basically and. I think I'm getting a consensus that everybody feels the same way.

Chair McGinley - I think we have to proceed

Mr. Gaccione – we needed to make sure we vetted the issue

Mr. Gianakopoulos - The next sheets that you'll see will make it a little easier for you. Already have a good idea of the structure and we can make this, we submitted as an exhibit, it's colorized version of the plant submitted, but R one is a new sheet.

Exhibit A-1 is submitted.

Mrs. DiBartolo – going back to Zoning letter It's a little bit hard to stay with the in the interpretation of the zoning. Who signed this is just based on the text of this letter, if she believes that there should be a D Variance. What's the protocol>

Mr. Ten Kate - I believe you have deferred to the Attorney, certainly the Board of Adjustment can interpret its own code and take its own interpretation of this. If the board decides that it's not, it can be heard as a C variance that would overrule the Zoning Officer.

Mrs. DiBartolo - It's so we have a determination from the Zoning official in writing here, and she doesn't specify whether she believes that there should be a C or a D.is that, is that owness on her to make that determination, or is it on us.

Mr. Gaccione - I don't think that's necessary that she make that. Usually the Zoning Official makes that and the applicant appeals from the decision of the denials and they would like to know what they're appealing from, but they can on their own decision as to what it is and still proceed

Mr. Gaccione to the Applicant Julie Parker - Counselor, what you have your opinion on that issue.

Applicant - Julie Parker - I have no opinion on what the Zoning Officer thought I couldn't say.

Mr. Ryan – This gets back to, if someone was going to appeal that, they could refer to the zoning officials lack of making a determination, if I'm listening to, Christie's, good point here, one way or the other the Zoning Official didn't give the Board any guidance per whether the zoning official believed it was a C or a D.

Mr. Gaccione - If somebody were to appeal it that would be one of the issues they certainly would appeal, but the ultimate decision be made, by the superior court judge as to whether he thinks it was a C or D.

Mr. Gianakopoulos – Restarts presentation. First elevation, sheet shows the west elevation, which you know is the front of the house although this is the side, it's the west side but this is the approach as you drive, up to the, house. This is the elevation that you see first. We had the porch and that roof would have a less of a pitch than the main roofs.

For the base and accent around the front entry, tapered peers and also with cultured stone, the standing C metal roof. First floor, we're looking at horizontal clapboard siding, we're showing iron ore color party plank cement fiberboard and on the second floor, and in the little gable treatments, we have certain cedar oppressions shingles there cedar shake look shingles. The east elevation and the north, so the north is the elevation that's most visible when you pull around in the driveway. The east is what I consider the backyard of property, and that one has the deck, treks deck with aluminum verticals and stainless steel rails, Windows are black mostly double homes we have a few casements thrown in where the window shape wouldn't allow for a double hung or in like situation like the kitchen counters.

Chair McGinley – Which one of those ridges is the 32 foot?

Mr. Gianakopoulos – The 32 foot is the top ridge on the main gable to the average grade. At the, at the end we have 16 ft. for the first gable, 25 feet for this gable, 28 feet for the next one, and then the top is 30 feet from the side. The balance of

these roofs are all below the height limit, and the idea was to cascade the roofs down and to really bring the scale of the house down and give it an appearance of a lower structure which the house that was here was similar. It was kind of like a pseudo Cape Cod. We're lessening the pitch to seven on twelve but not going to a very shallow group,

Chair McGinley – If you're standing on Grove Avenue, would you be able to see that 32 foot roof?

Mr. Gianakopoulos – Yes, you can see it. There is a house on the way but you can see it.

Mrs. DiBartolo – asks if this is two and a half stories?

Mr. Gianakopoulos - Correct. Yes, correct. In the New Jersey state code, one third floor area. There is 356 up there. but the overall is 1564 footprint. So it's less than one-third

Mr. Ryan – Following up on Chairman's question - if you're standing on Grove Avenue, the front of this house faces Dot Terrace. The other two structures basically front Grove. To the front structure is obviously facing Broad Avenue, correct? Mr. Gianakopoulos - Correct. Mr. Ryan - if you're looking from the street with this second structure now be higher than the first house.

Mr. Gianakopoulos - It is a gradual uphill slope okay but the the perspective of seeing the first house first even if the first house was a lot shorter, it would still appear larger, because we're so far.

Mr. Ryan Do you know what the height of the first structure is 32.4. Mr. Ten Kate verifies 32.4

Mrs. DiBartolo - Did you look into the definition between basement and cellar and does that constitute a story.

Mr. Gianakopoulos - It's not more than 50 % we're burying most of the house. The north side and the east side are pretty much just a few feet, the basement is underground.

Chair McGinley asks is there were any other questions for our architect? Anyone from the public who has a question for architect? Is there anyone from the public who would like to make a statement about this application? Seeing none, close the public portion and move to deliberation.

Mrs. DiBartolo – Question. Do you live in the house now?

Applicant - Julie Parker - We live on East Reid Place. They've always rented these three properties, except for a period of time when her father lived in the front one. The tenant in the middle houses recently has taken a position in Boston, and is going to be moving.

Mrs. DiBartolo - Do you know where the tenant in the middle parks?

Applicant - Julie Parker - He parks in the garden area, the backside of the house. Mrs. DiBartolo - Do you expect to park there as well, or in the garage?

Applicant Julie Parker- Yes

Mrs. DiBartolo – The garage that is E? As opposed to pulling up in front of the front door

Applicant Julie Parker – No, if there is a tenant house C, they would be blocked. Even though we're removing some asphalt, they'll continue to be a good amount of parking.

Mr. Ryan - I did go up and walk the property the other day. There is ample space with two garages and driveways even if you have multiple cars. The person in the dwelling now has one vehicle?

Applicant – Julie Parker – She has one vehicle now, the tenant in the middle house have two..

Mr. Ryan - you still feel there's adequate driveway space and garage space to handle all cars from an Engineering perspective?

Mr. Petry - Yes there's. There's adequate space on site for parking even when guests are on property

Mr. Ryan – For fire and for emergency vehicles are now going in as Indicated and there will be no changes or issues

Applicant - No. There is no problem getting the rigs up there.

Chair McGinley - We can go to deliberations. We have spoken and discuss the section 150 variance. Are we anywhere in agreement on acceptability of Variance 1500-13.4, 13.3A, 4.2A, 4.2G?

Mr. Ryan - We're all in agreement that we have to accept the fact that the three houses are legitimate if they were grandfathered in before we changed our pre-existing conditions, Personal opinion is whenever somebody is trying to improve something that's already there and if not substantially expanding the footprint of the property it's a benefit to the community to have a place that looks that looks better and the overall condition of a lot.

Vice Chair Weston - if talking about 150-4.2G there are three structures on the property right now. I don't know what repercussions this might have if there was an appeal from the town's perspective. Is it correct or not that we should be hearing this case with four, I will say just by the height of the building, the generator and the side yard, I don't have any issues with them. It is a large plot of land, generators nowhere near any of the other homes.

Mrs. DiBartolo – I want to be crystal clear if there are any repercussions to the township and we are the representatives of town…

Mr. Gaccione – The applicant would have to be concerned to defend their position, we would defend also, and some judge would decide, but that's taking time, money and effort for somebody to file an appeal.

Mr. Ryan – If I understood you correctly, Mr. Gaccione, it really is our ultimate decision to decide whether we consider it a C or a D variance. Mr. Gaccione - Absolutely at this point, that's correct.

Mr. Ryan - that seems to be the point where we really have to flush out - our concerns about that. Having sat on the Verona town council for 10 years, the overall the planning board for a number of years I don't quite have Mr. Gaccione's experience but I do know that people can get very picky to Mrs. DiBartolo;s point if they really don't want. Looking at the room, there's no big opposition. All of the neighbors have been notified, and we, have, nobody appear to be speaking in opposition. If we lean towards the C, as opposed to the D, I personally don't think we would be putting the town in a great deal of Jeopardy.

Chair McGinley - I would concur. We are all agree to accept that as a C

Mr. Ryan – Generators – concern about the noise factor – meet all building codes? Mr. Gaccione – yes, what you are allowing is the location. Mrs. DiBartolo – I am okay with the generator

Mr. Ten Kate - Perhaps we can have a condition of the application that they have to meet the NJDEP noise levels at the property line.

Mr. Ryan – Is the generator a backup generator? Applicant Julie Parker - It would only go on in the event of a power outage or tested

Vice Chair Weston - Usually it is every two weeks they test itself or every few weeks for an hour.

Mrs. DiBartolo – I think the intent of the ordinance was for screen from the street and this is so far back …

Chair McGinley - All in agreement on the building height and on being acceptable and we're all in agreement on the location of the generator, this was to be considered a C variance. The variances required under section 150 would be granted.

Chair McGinley - Do we have a motion and a second? Vice Chair Weston makes the motion and Mr. Ryan seconds the motion to approve.

There was a condition suggested, by the Mr. Ten Kate: The generator does not exceed the NJDEP maximum decibel noise levels at the Property line.

Roll Call:

Chairman Dan McGinley - Yes
Mrs. Christy DiBartolo - Yes
Vice Chairman Scott Weston - Yes
Mr. Kevin Ryan - Yes

Chair McGinley - Application passed. Typically we have a resolution at our next meeting. Resolution will be drawn up by legal counsel and memorialized at the next meeting in November.

Executive Session – 9:52 PM

Return to Regular Session at 10:10 PM

Adjournment

Chair McGinley asks for motion to adjourn. Mr. Ryan makes the motion, Mrs. DiBartolo seconds. Meeting is adjourned at 10:10 PM.

Respectfully submitted,

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.