# MINUTES OF THE VERONA BOARD OF ADJUSTMENT MEETING

## Thursday, November 9, 2023

**Present:**

Chairman Dan McGinley
Vice Chairman Scott Weston
Mr. Paul Matthewson
Mrs. Christy DiBartolo
Mr. Larry Lundy
Mr. Patrick Liska
Mr. Kevin Ryan
Ms. Diana P. McGovern, Board Attorney
Ms. Jennifer Hammer, Engineer
Ms. Kathleen Miesch, Board Secretary

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**CALL TO ORDER**

Meeting called to order at 8:01 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 the minutes from the Regular and Executive sessions held on October 12, 2023. Mrs. DiBartolo makes the motion, Mr. Ryan seconds. Mrs. DiBartolo, Vice Chair Weston, Mr. Ryan and Chairman McGinley vote in favor. Mr. Matthewson, Mr. Liska, Mr. Lundy all abstain. Minutes are approved.

**Old Business**

**Resolution 2023-17 – 170 Grove Street**

1. Mr. Ryan makes the motion to approve the Resolution for the Variance, Vice Chair Weston seconds. Mrs. DiBartolo, Vice Chair Weston, Mr. Ryan and Chairman McGinley vote to approve. Mr. Matthewson, Mr. Liska, and Mr. Lundy all abstain. Resolution is memorialized.

**Resolution 2023-18– Board Secretary (Amended) – Kathleen Miesch**

1. Vice Chair Weston makes the motion to approve the Resolution, Mrs. DiBartolo seconds. Mrs. DiBartolo, Vice Chair Weston, Mr. Matthewson, Mr. Liska, Mr. Lundy, Mr. Ryan and Chairman McGinley vote to approve. Resolution is memorialized.

## New Business

### Variance Application #2023-14: 58 Durrell Street; Block 1306, Lot 13.02
### Theo Silverberg

Mr. Matthew Capizzi, Attorney entered an appearance for the applicant and Mr. Paul Gdanski, Engineer for the applicant was sworn in. The applicant will not be giving testimony. Ms. McGovern verifies that the matter has been properly noticed/served for this application.
Mr. Capizzi gave a brief summary of the application: proposing a pool and patio in the rear yard, requiring a variance for impervious coverage and side yard setback. This is similar to applications that have been previously before the board for properties on either side on either side of this property, 54 and 62 Durrell Street. Mr. Capizzi states that Mr. Gdanski will review the same plan that was filed with the application.
Mr. Gdanski presents his qualification to the Board having appeared before multiple Zoning Boards throughout many municipalities. Mr. Gdanski testified that his license is in good standing.
Chairman McGinley asks that Mr. Gdanski take the Board through what is existing and what is proposed. Mr. Gdanski states that the there is nothing in the backyard currently and they are proposing an "L"shaped pool with a patio surrounding it. The patio on the west side is about 1.2 ft. from the property line and 4.2 ft. on the east side. Surrounding the pool and patio will be a French drain system that will collect all the run off from the full patio and direct it into a cultec system which is basically a dry well system. Pool dimensions are 17' x 40', by 19'x 36'.
Mr. Lundy asks about any existing fencing on either side of the property. Mr. Gdanski states that there is currently is fencing on both sides, six foot high vinyl fence.
Mr. Matthewson asked about the drainage system and any potential for negative impacts onto adjacent properties. Mr. Gdanski states that the water will be collected by the French drain and directed into the detention system. Chair McGinley asks if Mr. Gdanski had an opportunity to look at the Engineer's review letter. Mr. Gdanski states that the drainage calculation used in this municipality are different from other municipalities, so Mr. Ten Kate asked for a change. The change was made but it is not on the plans being presented because it didn't change the other variances.
Chair McGinley asks for verification that they will comply. Mr. Gdanski confirms that they will comply with all of the requests that the Engineer has made.
Ms. McGovern askes Mr. Capizzi if he could summarize what is being sought in the way of variance. Mr. Capizzi states that looking for a variance for 48.5 % impervious coverage, and 1.2 ft. for the side yard setback.
Chair McGinley asks for confirmation that the patio is within 5 ft. of the property line and that requires a variance. Mr. Gdanski confirms and states that the pool conforms.
Mrs. DiBartolo asks for the rationale for the location of the patio and pool i.e. the shape and location in yard. Mr. Gdanski states that it was client preference to have a play area of grass between the house and patio/pool.
Mr. Matthewson asks if the variances are for both sides. Mr. Gdanski stated it is needed on only one side
Mr. Matthewson states that there's a lot of space between the pool and the property line is there any way ty to reduce on the east side to make the patio conform and reduce impervious coverage
Mr. Gdanski it would take about 80 sq. ft. if we increase the setback along the east side to 5 ft.
Ms. McGovern – if you remove some of the cement patio so it's 5 ft. to the property line on the east side to reduce impervious coverage Mr. Gdanski calculates it would make the impervious coverage 80.44 with the percentage being 48.1 %.
Chair McGinley typical lot area for this zone is 8400 ft. and this lot is over 16,700, almost double; Mr. Gdanski correct.
Chair McGinley asks if the Board has any questions for the applicant.
Mrs. DiBartolo asks for detail regarding the water feature shown on the plans. Mr. Gdanski stated that it is like a fountain where the water spills through the wall.
Mrs. DiBartolo asks if there is any specific provisions about the fence location other than enclosed. Mr. Gdanski confirms.

Mr. Matthewson revisits the impervious coverage asking about the distance from the house to the pool. Mr. Gdanski states it is approximately 20 ft. from the piece that juts out.
Mr. Capizzi suggested that they can increase the offset to the west by bringing that patio from 1.2 ft. to 3 ft. Mr. Gdanski calculates it would take off another 72 sq. ft. – 79.72, making impervious coverage 47.6%.
Chair McGinley verifies that all drainage will be reviewed by our town engineer, before and after.
Mr. Ryan asks if the applicants were able to read the suggestions from our Environmental Commission.
Mr. Capizzi stated they did not see the review and it was then provided by Chair McGinley
Mr. Ryan asked if they had reviewed the township Storm Water Management ordinance. He raised the issue as the ordinance has not been in effect too long.
. Mr. Capizzi states they will comply with the Storm Water Management Ordinance.
Mr. Ryan notes that it is not part of the variance but with all the recent rain it has become a sensitive topic.
Chair McGinley asks for the record, your Engineer is going to look for information, correct
Mr. Capizzi notes that test holes have not yet been done. It would be something that will be evaluated during the permitting process prior to it installation on the drainage system. We are trying to capture runoff before it has an opportunity to go from West to East. Mr. Gdanski states that with the French drain, the runoff is being collected and will be going into the ground.
Mr. Gdanski states the French drain is on the entire edge of the patio.
Chair McGinley asks for clarification that all the way around this entire patio, is it gravity? Mr. Gdanski Yes, it'll be gravity into the drain
Mrs. DiBartolo asked about the the pool elevation at 400.5 and on the east side of the property and that she sees spot elevations that say 398.1. Mr. Gdanski confirms yes, it pitches to the east, to the edges of patio to get into the French train system. There's a small retaining wall on the east side, approximately 2 feet.
Mr. Ryan verifies that the applicant is not removing any trees or anything else from the property at this point, Mr. Gdanski confirms no.

Chair McGinley asks if there are there any other questions for the Engineer. Seeing none Chair McGinley ask if there is anyone from the public who has a question of the Engineer. Seeing none Chair McGinley asks Mr. Capizzi if there are any other witnesses. No further witnesses.

Chair McGinley asks if there is anyone from the public who would like to make a comment on this application. Request to state name, that you are a Verona resident; you do not need to give your street address.

**Joseph Venezia**, resident of Verona for approximately 23 years and lives on Durrell Street.
He does not want to discourage any new neighbor's development and wishes success with it. He would like to put on the record that he's asking for some help to resolve a local issue that's affecting his property, specifically flooding. Mr. Venezia lives at 48 Durrell. The property lies 18 ft. below elevation of all the other neighbors and floods quite often. It is an issue that has occurred since moving to this location for about four years. The site plan was approved by the town just before he purchased the property and the house. The house was already constructed when the property was purchased. Mr. Venezia stated for the record that there is a severe flooding issue. Mr. Venezia produced a timeline that describes the development. On the handout (marked *VENEZIA 1*) it shows the relative improvements that all of our neighbors have done. The neighbor to the east has added a patio, the neighbor directly to the west just finished a project and they're over 40% impervious coverage. The project heard at the Board and another project that was recently completed; Mr. Venezia would also like to submit for a project, having recently submitted for a permit within all zoning compliance with no variances. The reason he is at the meeting is because part of the proposed project is going to require correction of the flooding prior to doing any work. They have been trying to improve property for four years and are struggling with the flooding. They hired an Engineer, done studies, and found a solution that is quite costly. Mr. Venezia wants to make it part of the record that help is needed with this solution, because it requires trenching throughout their property and into about 100 ft. within the street. There have been preliminary discussions between the Venezia's Engineer and Boswell Engineering, and there's been verbal approval that this is a feasible option, but Mr. Venezia wanted it noted for the record that it's an expensive solution.
Mr. Ryan asks if Mr. Venezia has gone to discuss this with the Town Manager or the Town Council especially with discussing money. Mr. Venezia stated that he had discussions with Michael DeCarlo. Recently with his own

Engineer to understand the situation, and with Boswell. This is his first conversation with the town officially, other than submitting an application for a permit last week. Chair McGinley states that there have been several applications from as far down as Ann Street complaining about the ponding and the water coming off of higher properties. Mr. Venezia stated that his property is unique as it is below all of the neighbors, west, east, north and south, and somehow his site was approved as such prior to purchasing it. He was told that there would be no issues, and then within a month there was flooding. Mr. Venezia made a FEMA claim a year after hurricane Ivan due to damage to the basement. The flooding actually came through the basement windows. Mr. Venezia stated the he has done the work, spent the money with the Engineer to come up with a solution and it does exist, but he is looking for partnership from someone to help solve this for the whole neighborhood. He believes it is a viable solution.
Chair McGinley advises Mr. Venezia that the Board cannot help directly, but the presented document is good and he is going to the correct places. Boswell is the town Engineer, so hopefully the process can be worked out.
Mr. Venezia's intention was not in opposition of the neighbor's project. He just saw the opportunity to have the discussion here and put it on the record. Mr. Ryan reiterates to the resident that the Board has no jurisdiction over directly solving the problem. Mr. Venezia understands but thought it was a great opportunity to have a dialogue.

Chair McGinley asks if there is anyone else from the public that would like to make a statement about application. See none, the public portion of the application is closed and open to **Board deliberation.**

Mrs. DiBartolo voices concern regarding the proposed location of the pool. The pool is far back from the rest of the property and does two things; the patio with the gazebo is could double as the patio for the house and the pool. Understanding the want for lawn space in the middle but it seems to be a missed opportunity to pull the pool closer to the house. If you need to get into the house, you're trekking across the lawn, which could get old and muddy quickly and then winding up wanting to put another path to connect the two. There is also concern on more of a macro scale, with a very densely populated road. Water in this area is a huge issue.
Mr. Matthewson states that the patio is the biggest issue for him. There are other pools in that same area, but I think just the coverage itself is a little low for this property.
Vice Chair Weston states it is a lot of coverage but the addition of the French drain mitigates the water impact that would that would be caused by this proposed development. It seems like a water will go through the system and stay on the property.
Mr. Ryan took the opportunity to look at Mr. Venezia's timeline on his document understands what he's saying that he's not speaking directly towards this application, but if you look at all of the other properties on that block that were affected at various points in time, it's possible that this is just a failure of the whole concept of Stormwater Management within the neighborhood. As long as the current storm water management guidelines are being met, knowing that's not the Board's direct jurisdiction, Mr. Ryan doesn't think what the applicant is asking to do is unreasonable. The applicant agreed to make some accommodations that cut back on the size of the patio move it in a little bit.
Chair McGinley states that what is being attempting now is to fix the neighborhood, one lot at a time with each lot being responsible for maintaining the storm water flow on their lot so it doesn't exacerbate the problem eventually.
Mr. Ryan states that unfortunately you can't go back retroactively and impose the storm water management.
Chair McGinley stated for the resident's clarification, it's the expectation of the applicant to address the water that's on his site, and it's not the expectation to solve the neighborhood.
Mr. Liska stated that in previous cases, the Board required the same drainage around verticals
Mr. Capizzi added that even with the impervious coverage coming down, they will keep the drainage system designed as originally depicted on the plan set, and will have an element of over storage as well. There is no issue with the system on the plan being a condition of rule not being downsized.
Chair McGinley verifies that nobody has a problem with the variance for the patio being within 5 feet of the westerly property line, now about three feet. The impervious coverage is down, according to the Engineers calculations, to 47.6 %. The Impervious Calculations are still high, considering there is a major unusable portion of this lot.
Mr. Lundy The lot is larger than what's required in the zone, but the percentage is the same, so on one level, I don't see how the homeowner should be penalized for developing his property based on the percentages he's above 40 %. There are no issues regarding tree, it is almost like a giant bowling alley with a fence on both sides. There's no, there's no trees in the backyard, from the picture. Understanding why the applicant wants the pool considering the

layout of the lot, away from the house due to noise in the pool and quiet in the house. The distance allows that on the plot of land to do that. It's problematic when you're doing this in a neighborhood where there's some flooding issues but the flooding issues are separate and apart from this particular property. The flooding issues goes back to what the circumstances were when this entire street was being set up for development. Dramatic rainfall totals in the last half dozen years doesn't make the neighbor's house any less wet when the floods come in through the basement windows. As far as this application, Mr. Lundy believes the application stands on its own merits and has no problems with it as presented.
Chair McGinley asks for discussion any conditions that might be applied
Mr. Liska as far as the patio there are conditions but he doesn't think there's any other additional conditions.
Vice Chair Weston clarifies the patio is to be 3 ft. on the west side and will be in compliance on the east side.
Mr. Lundy added that there's no reduction based on that revision in the drainage system as proposed.

Chair McGinley calls for a **motion to approve** Application number 2023-14. Mr. Liska makes the motion and Vice Chair Weston seconds. Mr. Liska, Mr. Lundy, Vice Chair Weston, Mr. Ryan and Chair McGinley all vote Yes; Mr. Matthewson and Mrs. DiBartolo vote No. The motion for approval passes.

Chair McGinley asks if the Board has a need for an executive session.

Mr. Ryan does not feel that his comments need to be in executive session but has a comment regarding the presentation regarding general conditions on that street. Mr. Venezia indicated that he has gone to the town. The question is does the Board provide direct feedback to the municipal government that could actually effectuate some of the changes that Mr. Venezia is looking for.
Chair McGinley stated that it could be reflected within the Board's annual report. In the Annual Report the Board has the ability to make recommendations. The Board could recommend something along the lines of having multiple Applications in the same area that have all identified excess storm water as a as a major problem. The Board has been able to address it at those three or four applications but there's something happening in that entire area that is not working correctly.
Mrs. DiBartolo states that it is a missed opportunity. Mr. Ryan added that it's been an issue for a long time that is not going to go away. Rainfall is 10" to 15" above normal that couldn't be predicted. Parts of the town that have been very problematic for a lot of the folks that, that have suffered repeatedly from this, and it's not just it's not just hurricanes anymore.
Vice Chair Weston reiterated that the Annual Report is the Board's one opportunity to have a formal submission to the town council and the Board has the latitude to put in whatever the Board chooses.

Mr. Venezia asks for additional time to speak and Chair McGinley allows him a few minutes. Mr. Venezia states that that area was Bahr Oil prior to being developed residentially. His lot sits on one half the residential Bahr area that was developed. The house was raised and subdivided into two homes. Four neighbors are sitting on the lot now. The fill is not homogeneous. Mr. Venezia has witnessed neighbors dig up their pools, and found not soil but concrete, poles, etc. These things make the situation worse and somehow that got passed for development. Anytime it rains it exposes everything that's buried and that's part of the issue now. Understanding that the elevation the town is unique, there is also a unique problem in that these type of systems that are not going to properly manage the water, they are still 18 feet above his lot, and tare draining into a landfill base. Mr. Venezia witnesses his neighbor pull out about 20 tandem trucks of rubbish 18 feet above Mr. Venezia's lot. The discussion here was to make it more public. There are a lot of other factors that play with the drainage. Mr. Venezia reiterates that he is not complaining but looking for help to correct it. Mr. Ryan recalled the high school football field collapsing because it was built upon construction material. A sink hole developed during a game. It cost the Board of Education a lot of money to remediate the field because they had to dig up all of the bad soil. Remarking that it sounds like that's part of the problem that Mr. Venezia and his neighbors are experiencing. Mr. Venezia stated that it is an unnatural elevation change, and when it does rain, it exposes non-natural items underneath the topsoil. The elevation was built up at one time for that lot using unnatural means. Resident is thanked for sharing his remarks and documents.

Chair McGinley states that no Executive Session is needed. Board states no.

**Adjournment:**

Chair McGinley asks for motion to adjourn. Mr. Ryan makes the motion, Mrs. DiBartolo seconds. Meeting is adjourned at 9:04 PM.

**Respectfully submitted,**

Kathleen Miesch

**Kathleen Miesch**
**Verona Township**
**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 Zoning Office at 973-857-4772.***