



RESOLUTION 2026-25
ZONING BOARD of ADJUSTMENT
of the TOWNSHIP OF VERONA

Application 2026-18 5 Balston Drive, Block 1801, Lot 53 – Zone: R-70

WHEREAS, George and Margaret Mazarakis (the "Applicants") made an application to the Verona Zoning Board for approval of a rear yard deck and a six-foot fence previously constructed without approvals on the property known as 5 Balston Drive, Verona, New Jersey (the "Property"); and

WHEREAS, the Property is located in the R-70 Zone on the Township of Verona zoning map; and

WHEREAS, the Verona Zoning Official determined that the following variances are required:

1. Pursuant to Verona Code § 150-17.5 F (4), the maximum aggregate area covered by accessory structures in the yard in which they are located is 15%. The rear yard of the Property is 2,639 square feet, such that 395.85 square feet is permitted. The existing coverage is 25.9% (684 square feet) and the proposed coverage is 25.3% (668 square feet), which reduces, but does not eliminate, the pre-existing non-conforming condition. The deck, approximately 16 feet by 19 feet (304 square feet) with steps, was constructed without approvals;
2. Pursuant to Verona Code § 150-17.2 F (1), the minimum side yard setback (one) is eight (8) feet, where the deck is located four (4) feet from the northeast side property line; and
3. Pursuant to Verona Code § 150-2.2 A., when two structures (other than buildings) are less than three (3) feet apart measured horizontally from one another, they shall be considered one structure. The combined height of the fence and the retaining wall exceeds six (6) feet, and a variance is therefore required; and

WHEREAS, the Application was deemed complete, and notice duly served to allow the Board to hear the Application at its regular meeting on September 10, 2026; and

WHEREAS, Mr. Ryan and Mrs. Murphy-Bradacs did not participate in the consideration of the Application; and

WHEREAS, the Applicants appeared without counsel, were duly sworn, and testified in support of the Application; and

WHEREAS, the Applicants acknowledged that the deck and fence had been constructed without completing the required zoning approval process and expressed their understanding of the permitting requirements. The Applicants seek to maintain and legalize a rear yard deck of approximately 14 feet by 19 feet and a six-foot fence; and

WHEREAS, the Applicants testified that the Property has substantial grade changes, that the deck provides a safer and more accessible outdoor area, and that accessibility is needed for a family member who uses a wheelchair; and

WHEREAS, the Applicants further testified as follows:

- (a) No substantial grading changes were made to the Property;
- (b) The existing retaining wall was reconstructed under a prior permit to replace a deteriorating wall, and incorporates drainage provisions, including a drainage pipe, gravel and fabric;
- (c) A four-foot chain-link fence previously enclosed the area and was replaced with the existing six-foot wooden fence;
- (d) The fence is positioned near the retaining wall to protect against falls and to prevent children from accessing an unprotected drop;
- (e) An existing brick patio beneath the deck was removed, which reduced the existing non-conforming coverage;
- (f) No new drainage system was installed for the deck, which is constructed of pressure-treated wood with gaps between the boards that allow water to drain through to the ground; and
- (g) The surrounding neighbors received notice of the Application and have not expressed objections; and

WHEREAS, the Board questioned the Applicants regarding the location of the fence, the retaining wall, existing vegetation, and the relationship between the improvements and the rear yard coverage of the Property, and whether the fence could be relocated farther from the retaining wall; and

WHEREAS, members of the public were given the opportunity to question the Applicants and to provide statements to the Board, and no member of the public asked questions or offered comments; and

WHEREAS, during deliberations, certain Board members expressed concern that the improvements occupy a substantial portion of the available rear yard and that the six-foot fence appears imposing when viewed from neighboring properties, and other Board members acknowledged the Applicants' testimony concerning safety, accessibility and the existing retaining wall; and

WHEREAS, the Board discussed whether reducing the height of a portion of the fence would address the concerns raised, and the Applicants agreed to reduce the height of the portion of the fence along the side yard from six (6) feet to four (4) feet; and

WHEREAS, the Board established the following findings:

1. The Applicants are seeking variances from Verona Code § 150-17.5 F (4) (accessory structure coverage in the rear yard), § 150-17.2 F (1) (side yard setback) and § 150-2.2 A. (combined height of the fence and retaining wall) to legalize a rear yard deck and fence constructed without approvals.
2. The Property has an unusual configuration and substantial grade changes, including an existing retaining wall and a grade drop in the rear yard. These exceptional topographic conditions limit the usable area of the rear yard and create a practical difficulty in providing a safe, accessible outdoor living area in conformance with the Zoning Ordinance.
3. The fence, in its location adjacent to the retaining wall, serves a safety function by protecting against falls from, and preventing children from accessing, an unprotected drop.
4. The removal of the brick patio beneath the deck reduces the pre-existing non-conforming accessory structure coverage of the rear yard from 25.9% to 25.3%.
5. The deck is constructed with gaps between the boards that allow stormwater to drain through to the ground, and the reconstructed retaining wall incorporates drainage provisions. No substantial grading changes were made.
6. The reduction of the height of the side yard portion of the fence from six (6) feet to four (4) feet, as agreed by the Applicants, mitigates the visual impact of the fence on the neighboring property and addresses the concerns expressed by members of the Board.
7. The testimony offered by the Applicants was credible and adequately supported the Application. The Applicants met their burden of proof with regard to the positive criteria pursuant to N.J.S.A. 40:55D-70(c)(1), in that the exceptional topographic conditions of the Property result in practical difficulties and undue hardship, and pursuant to N.J.S.A. 40:55D-70(c)(2), in that the purposes of the Municipal Land Use Law, including the promotion of public health and safety, are advanced by the deviations and the benefits of the deviations, as conditioned herein, substantially outweigh any detriment.
8. The Applicants met their burden to prove the negative criteria – that the relief, as conditioned herein, could be granted without substantial detriment to the public good and would not substantially impair the intent and purpose of the zone plan or the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED, by the Zoning Board of the Township of Verona, that the referenced Application is APPROVED with the following conditions;

1. The Applicants will comply with all representations made by the Applicants during the hearing. All of the Applicants' testimony is incorporated herein as if fully set forth.
2. The portion of the fence located on top of the deck along the side yard shall be reduced in height from six (6) feet to four (4) feet.

3. The Applicants will satisfy all municipal and administrative agency requirements and shall obtain all required permits, approvals and inspections for the deck and fence.

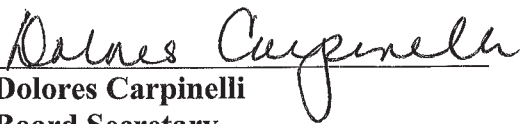
NOW THEREFORE, BE IT FURTHER RESOLVED that a copy of this resolution be provided to the Applicants, Township Manager, Township Council and Township Clerk.

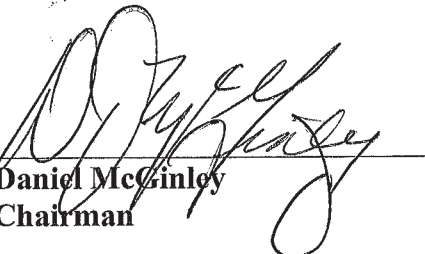
MOTION TO APPROVE: Mr. Konrad-Parisi SECOND: Dr. Ries

Roll Call Vote:

	AYES	NAYS	NOT ELIGIBLE	RECUSED	ABSENT
Mr. Konrad-Parisi	Y				
Mr. Tully			X		
Dr. Ries	Y				
Dr. Cuartas	Y				
Mrs. Murphy-Bradacs			X		
Mr. Ryan			X		
Mr. Mathewson			X		
~~Mrs. DiBartolo~~					
Vice-Chair Weston			X		
Chair McGinley			X		

THIS IS TO CERTIFY THAT THE FOREGOING IS A TRUE AND EXACT COPY OF A RESOLUTION ADOPTED BY THE BOARD OF ADJUSTMENT AT ITS REGULAR MEETING HELD ON OCTOBER 8, 2026, MEMORIALIZING THE ACTION TAKEN BY THE BOARD AT ITS REGULAR MEETING HELD ON SEPTEMBER 10, 2026.


Dolores Carpinelli
Board Secretary


Daniel McGinley
Chairman