

Minutes of a Regular Meeting of the Verona Board of Adjustment on Thursday September 11, 2014 beginning at 8:00 P.M. in the Verona Community Center, 880 Bloomfield Avenue, Verona, New Jersey.

Roll Call:

Present: Daniel McGinley, Chairman, John Denton , Vice Chairman, Larry Lundy, Sean Sullivan, Louis Russo, Edward Conlon, Michael Zichelli, Coleen D'Alessandro, Alt#2
Also present: Robert Gaccione, Esq. & Thomas Jacobsen, Construction Code Official.
Absent: Pat Liska, Alt#1
Tardy: John Denton

Secretary read the notice of Open Public Meetings law and called attendance.

Mr. McGinley, Chairman called meeting to order at 8:03 PM. He then explains to the Applicants that the Board can grant variances, but the burden is on the Applicant to prove special reason or any undue hardship. Mr. McGinley states the Applicants shall offer sworn testimony on their application and the Board will rule based on the evidence presented. He reports the variance, if granted, will be memorialized at the next monthly meeting.

Application:

**Case 2014-07: John & Rose Rachel, 26 Valhalla Way
Block 21 Lot 26**

Mr. Gaccione offered proof of service was in order.

John and Rose Rachel, homeowners, were sworn in.

Mr. Rachel explained they were looking to put an air conditioner condenser unit in his side yard and the distance to his property line is less than allowed and would be in violation of zoning.

Mr. McGinley asked if there was no other place to put the unit. Mr. Rachel explained that there really was not another good place to put the unit. He also said that Glenn Hauser from the building department had been out to the location to see the situation and to show him there really was no other place to put the unit. He explained in 1972 they put an extension onto the house and there was no attic to it so the unit needed to go outside.

Mr. Conlon stated he had gone to the property and there was no other real place to put the unit and the location he was looking to put it was further forward from the neighbors deck and opposite the neighbors garage which was the best for the neighbor. He also expressed that as long as there was screening around it he had no problem with it.

Mr. McGinley asked about the screening. Mr. Rachel explained there was already a great deal of screening to the front shielding the unit from the street. Mr. Conlon asked if he was planning to put any around the unit. Mr. Rachel explained he would do whatever it takes to be allowed to put the unit in the side yard.

Mr. Zichelli asked if they had spoken to their neighbors to the side by the unit. Mr. Rachel said he had and that the neighbors were all for it. Mr. Zichelli also asked if there were any bedrooms by the garage. Mr. Rachel stated that there was a bedroom on the 2nd floor above the garage and that bedroom has new windows to it. Mr. Zichelli also stated

that with the older houses those air conditionings units help make it more comfortable and that the lots are not as large and that it would be a suitable location for the air conditioning unit. Mr. Sullivan added to that saying that they don't always have lots that fit the zoning so exceptions are made. Mr. Zichelli explained the lot was 60 x 140 feet and that a 60 feet width does not give a lot of room to side.

Mr. Russo and Mr. Lundy expressed they had no problem with the application and the location. Mr. Conlon agreed as long as condition that there be adequate screening. Mr. Lundy added to that the applicant stated he would screen the unit,

Public Comments: None

Mr. Lundy motioned case 2014-07 be granted; Mr. Conlon seconded the motion. All votes aye. Application granted.

Minutes:

Minutes from the July 2014 regular meeting. All votes aye, minutes approved.

Resolutions:

Case 2014-05 Graham Associates, 25 Fairview Avenue; Mr. Sullivan motioned approval; Mr. Zichelli seconded. All votes aye. Resolution approved and memorialized.

Case 2014-06 Christine Ferrer, 30 Halsted Street; Mr. Conlon motioned approval; Mr. Zichelli seconded. All votes aye. Resolution approved and memorialized

Board Business:

Board reviewed and approved dates for the regular board meetings for the next year.

Mrs. D'Alessandro excused herself from the rest of the meeting as she had missed previous testimony for the next case, DeCozen.

Application:

Continuance

**Case 2013-04: DeCozen Chrysler-Jeep, 225 Bloomfield Avenue
Block 9 Lot 10**

Steven Greenberg, attorney for the applicant explained that his client had submitted revised plans for the application.

Mr. Greenberg called William R Vogt, Junior, engineer. Mr. Vogt was sworn in.

Mr. Vogt testified he works for L2A Land Design in Englewood. He has a Bachelor of Science degree in Civil Engineering and he is a licensed engineer in New Jersey and New York. He also stated that he had appeared before numbers of boards throughout the state but never before Verona and he was accepted by all those boards as an expert in engineering. Mr. Sullivan motioned the board accept him as an expert witness in Engineering and all members agreed.

Mr. Vogt began his testimony explaining he had prepared the new plans before the board for DeCozen Jeep Chrysler Dodge at 225 Bloomfield Avenue. He entered into evidence, exhibit A-1 9-11-14, site plans dated 8-21-2014 marked proposed site plans 225

Bloomfield Avenue Verona. He explained that the site is a corner lot existing as an automobile sales and service center. The drawing shows the parking configuration currently and the way they would like to continue. He then offered into evidence, exhibit A-2 9-11-14, drawing G-2 site plan prepared by a previous firm dated 5-4-2005 that shows what parking was and what was approved previously by board and signed off on from 40 display front yard and 12 other parking spaces with a total of 52 parking spaces approved previously by prior variance.. He explained exhibit A-1 depicting one ingress entrance to the westerly side of Bloomfield Avenue frontage with 80 striped parking spots in that site. The parking spots were drawn in on the site plan with totals in each row circled. Additionally there are also the 2 rows of 20 cars for display cars equally forty allowed prior a variance and the rest of the spaces they are looking to get approval for in the front yard totaling additional 12 in front yard to the 40 prior allowed. There was discussion amongst board and with Mr. Greenberg and Mr. Gaccione as to what was allowed in prior variance whether 40 display plus additional or only 40 display parking spaces. Mr. Vogt he was only trying to establish comparison to what allowed and what asking for along that lead to the new proposed parking plans for site. The layout of the site as currently being utilized has issues for emergency vehicles. An ambulance would be able to access site but a fire truck currently would not be able to access the site to properly answer a fire call. The new layout would help with that as a proposed curb down center near westerly entrance would block from display area to make sure entrance would stay open for emergency vehicles and also to help business owner to keep customers from driving through and damaging display vehicles by the one way ingress on the westerly Bloomfield Ave frontage. The one-way in entrance is 20 feet wide and fire truck would be able to enter through there and travel in crescent path through the front of property back to easterly Bloomfield Avenue entrance also with a 20 foot curb cut that allows two-way traffic. The plan shows a 16 foot drive access to service area where cars are brought into building. There would be display and parking for customers in and front and off to western in order to keep in front of building. There would be parking to easterly side for service along with added 8 stalls to west of fire house and parallel parking for employees to rear. He offered exhibits A-3 9-11-14 and A-4 9-11-14 drawings showing in color coding the parking spaces from previously allowed by variance to nonconforming sized spaces to those extra in front yard setback to employee spaces to customer parking and handicap spaces and the other drawing showing the pathway through the site proposed for a fire truck to access respectively. Mr. Vogt continued to explain that along with the 52 previously approved by earlier site drawing from 2005 along with 22 more for display purposes and some other parking spots there would be a total of 78 parking spaces that would be in part of the front yard setback with majority of those spots for display. He also stated that they are not proposing any expansion to the building r parking areas that this plan and the variances they were seeking are to establish parking lines and plan to best suit property functionality and to establish a landscaping plan to help. The proposed striping would be outline of whole display rows and individual lining for parking spaces.

Mr. Zichelli questioned a triangular land area with wall and refuse indicated on it to rear easterly side of property. Mr. Vogt explained that the dumpsters were actually in front of fence area and will fix that on drawings going forward from this point. The space on drawing that they are currently depicted is actually unusable land that is fenced off and at the bottom is an open stream that is on NJDEP flood plan map and DEP would not allow anything on that land without approval. Mr. Zichelli also questioned if they had spoke with fire officials to make sure this plan was acceptable and Mr. Vogt replied yes and they had a letter stating such and referred to letter from Jeff Hayes, Township Emergency Management Official dated 8-25-14. He also explained the only comments made in the letter referred to having the parking spaces marked beginning and end along fire house

and suggesting that main parking area marked for emergency vehicle flow pattern. They would stripe fire lane on property. Mr. Zichelli questioned the display parking and what would keep people from going to those cars and trying to view them and sit in them. Mr. Vogt explained the cars would be parked there for display and if customers wanted to look at interior of cars they would need to go into the show room. Mr. McGinley and Mr. Zichelli both asked if there was a standard for display parking space size. Mr. Vogt said it was a common use of car dealerships to be tandem substandard parking spaces but there was no real definition for display parking. Mr. McGinley questioned the number of parking spots in display if they are only going to line an outer box for rows. Mr. Vogt explained based on vehicle size the max that would fit in first two rows would be 26 and 25 in the third row at most with possibility of less depending on car sizes. Mr. McGinley questioned the distance of the buffer zone in front of parking along Bloomfield Ave and Brookdale Avenue. Mr. Vogt expressed it was about 10 feet. Mr. McGinley also questioned a breakaway fence that was supposed be to the easterly side of the property to rear of the fire house adjacent to the property. Mr. Vogt said he was onsite that day and noticed bollards or fence posts with a chain between and he would consider that breakaway. He also stated it was not also closed part way and that someone could access or drive through the area. Mr. Jacobsen questioned the landscape plan and if there was going to be a one submitted showing and listing the specific species to be used and there locations. Mr. Vogt said they were going to follow the plan submitted originally by Mr. Miletto on a proposed site plan dated May 29, 2014. Mr. Greenberg added the plan was submitted with original on small sheet.

Mr. Jacobsen asked for them to address Mr. Helb, township engineer, comments of the plan. Mr. Greenberg then went through each of his comments from his original comments dated May 7, 2014 one by one. Many of his comments they had addressed by going through the site plans. One that was not touched upon was the tow truck storage and that was going to be left for the owner. The fire access commented mentioned 20 foot lane and they are allowing 24 foot access lane. One comment mentioned the employee parking spaces with regard to the sizes and the no turn around. Mr. Vogt explained that the employees all come before open and do no leave till close. They put the employee parking to the rear of building and fit in what the y could in order to avoid street parking for employees. He also explained as the employees regularly parking in those same spots they were used to pulling in and out as needed. One comment #8 mentioned needing block curbing details and Mr. Vogt declined to provide as they are not installing any block curbing along streets. Mr. Vogt mentioned the comment from Helb mentioning lighting plan and hours of operation where the lighting plan was not to change and the hours of operations are as they have been, Monday through Friday 8 am to 9 pm, Saturdays 9 am to 6 pm and closed on Sundays. He added that there are 2 security lights that stay on all night on the property and shine directly into property not outside. Comment 13 mentioned off street loading and Mr. Vogt explained that majority of time they have cars delivered 3 at a time by flat bed pickup truck and about 4 times a year a larger 9 car carrier delivers in front area on Bloomfield Avenue. He stated that comment 19 they did not need to do and they agreed to comments 20 and 21.

Public Questions for Mr. Vogt

Richard Aloia, 26 Malvern Place Verona

Mr. Aloia questioned the delivery of vehicles by large carrier and then how the rest of vehicles get there including larger trucks. Mr. Vogt expressed the details were addressed by the owner Mr. Cerino. Mr. Aloia's second question was regarding exhibit A-3 and the

orange spaces shown. Mr. Vogt explained that those spaces were designated for display vehicles.

Mr. Gaccione also asked about Mr. Helb's comment 12 about emergency vehicle lane being striped and if okay with authorities ticketing vehicles in that lane. Mr. Vogt expressed it was okay by him but that the property / business owner would have to agree to it not him.

After public questioning for Mr. Vogt was closed the Board took a short break at 9:30pm and then called the meeting back to order at 9:37pm.

Mr. McGinley also put on record at this time that Mr. Denton was present for the meeting and had arrived shortly before case 2013-04 began being heard.

Mr. Greenberg began with his next person to testify, Michael Cerino, property and business owner. He was previously sworn in at another meeting for the application.

Mr. Cerino began testimony by explaining the drop-off and delivery of vehicles to the property. He explained that usually 3 at a time are delivered by pickup truck with trailer and the whole process takes about 9 minutes and is done 3 to 4 times a day. This is the process that most dealerships on Bloomfield Avenue use as well. He explained that he gets a big order delivered quarterly with the new system by Chrysler. A 9 car loader delivers the cars March, June, September and December. The big loader needs to deliver by Bloomfield Avenue.

Mr. Greenberg directed Mr. Cerino to explain how things with the business had changed since last time board approved for display parking. Mr. Cerino explained that in 2004 2005 when last before the board they were under Chrysler Jeep only. Any dealership that made it through the bankruptcy of Chrysler after that in 2008 added Dodge to their dealership, making them under Chrysler, Jeep & Dodge. Dodge added Ram trucks to inventories. Before this they could do orders monthly for vehicle supplies and that meant less that needed to be stored and displayed. Once changes came after bankruptcy and adding Dodge there was changes to MSR, the minimum sales required, per dealership and also the times orders placed to quarterly. These changes made for needing to have more cars in stock and displayed. For example in one year the number that needed to be inventory went from 1082 to 1682 went from needing to sell 40 to 50 cars a month to 140 to 150 a month in order to keep up and to keep room. Dodge also brought along business vehicle market and as part of this need to have trucks in stock. In past when they built the building and started on the property they could have majority in show room and minimal on lot. Now with the new Chrysler over the years as increase in requirements and use and need to produce more sales, they needed a new plan for the property to help reutilize and stay at this property. He explained they are looking to make a beautiful property and that a car dealership of ideal for bringing more people into town to, possibility for 100 plus people monthly, which helps boost all commerce in Verona. He is the Chamber of Commerce President in Verona and he is looking to do best for town. He wants to be and in town dealership, a beautiful establishment with softer look and not a highway dealership. He wants to utilize his property better for business and for everyone. He is looking to define everything and have boundaries in order for there to be able to be enforced by town and within.

Mr. Conlon and Mr. Zichelli questioned Mr. Cerino about the vehicles that are sold most and what size vehicle are the majority held on site. Mr. Cerino said that majority of the

cars on site and sold are the Jeep Grand Cherokees and some of the smaller cars. They also questioned the need to keep the work vehicles, trucks and plows up front along street. Mr. Cerino explained that most car buyers will do research and look on line or shop around to find a vehicle then come into dealership where as majority of the business- commercial vehicles are bought on impulse or on immediate need so will drive by see vehicle and buy it. He explained if those vehicles are hidden back further in lot then they won't be seen and won't sell. Mr. Conlon asked if the number displayed upfront could be limited. Mr. Cerino said now they are limiting the number to 5 and that planned on landscape with white pines to block them so only could be seen from east. he would prefer as other dealers do to put them on blocks with lights on them but he is limiting them and how they are seen to try to keep from being over done. He also stated he had spoken previously to Mr. Jacobsen about flipping cars around .He was willing to discuss and consider the dump trucks not being up in front for display along Bloomfield Avenue and Brookdale Avenue/. Mr. Conlon expressed his concern of having Bloomfield Avenue look like Port Newark or route 46 with cars just lined up all across. Mr. Cerino said if dump trucks are a problem he would not display them up front. He also explained that to the residential neighbor side by Brookdale Avenue he has landscaping as high as possible to keep shielded and softened to residents which makes Bloomfield Ave the only side where vehicles can be seen. Due to the slope of the property down and into building the only vehicles really seen from street are the first row to see others need to drive into property.

Mr. Conlon questioned Mr. Cerino about the landscaping and what was discussed at a previous meeting about cleaning up. Mr. Cerino explained the day following that meeting he had his landscaper people there cutting and cleaning up property. He said looking forward that there are plans for the slope that was put in by previous owners Celentano and curb and retaining wall ripped out and replaced with new wall and grass and mulch like shown on plan. He also explained that if the plan proposed was not good enough that he would do something that they all agreed upon and do a separate landscape plan. He said he doesn't want to do anything not ascetically pleasing.

Mr. Jacobsen questioned Mr. Cerino about employee parking on site only. Mr. Cerino stated that presently all employees do park on site and there is the occasional time when a part time employee would park on Brookdale Avenue. However it is frowned upon if any employees park on side streets they are preferred to park on site. He stated that he has seen cars parked on Brookdale regularly but they are from other businesses in the area. MR. Jacobsen also questioned about the five display spaces to west of westerly entrance and the plans for vehicles to be parked there in past plows and dump trucks there. Mr. Cerino explained none in front for moment they were in back rows hidden by trees and that if one was in front he will not put them over into the buffer zone as before he would park them angled in area to fit better. He also stated that usually have 6 trucks but at present there are none because they are on a freeze with Chrysler since town would not allow them to be displayed out in front. Mr. Conlon and Mr. Jacobsen wanted to understand more clearly what Mr. Cerino was considering a truck, if that included larger vans. Mr. Cerino explained that what he meant by trucks was the commercial vehicles pickup trucks and vans not the dump trucks to be in front yard by westerly entrance behind trees. He was looking to have 5 trucks, 4 vans and 1 pickup for most of year and was asking to have it limited to 3 trucks and vans during months of October through December with one having a plow on it.

Mr. McGinley questioned the breakaway fence by the firehouse that was part of two previous resolutions for the property. Mr. Greenberg explained that came about because

of neighbors that previously occupied 201 Bloomfield Avenue where Chrill Care is presently. The previous neighbors had people coming in and out regularly and those customers were coming in and using the parking of Mr. Cerino's property so they, the property owners, had asked for the breakaway fence it was not the board that requested it. Now with the new neighbors occupying that property there was not really a need for the fence anymore. They do use that occasionally for vehicles to get out and for garbage pickup so don't see fence as needed. Mr. Cerino added he only saw a need for breakaway fencing by firehouse but not on rest of that easterly area.

Mr. Sullivan asked how they were going to designate display parking from other parking. Mr. Cerino explained they try to cone off display parking because if nothing physically there people will park but he also suggested they could block off where display area is and already has marked off handicap parking. The original designs were in hopes of a lot of through traffic but the traffic is very consistent.

Public Questions for Mr. Cerino: None

The next professional Mr. Greenberg called to testify for the application is George W Williams, who was accepted previously by the board as a planner. He was previously sworn in at that time as well.

Mr. Williams explained that since last seen by board they had reviewed the municipal comments and concerns for the application and revised the plans and switched to a new company to do those plans, L2A. He then reviewed the variances that they were seeking D-3 automobile sales use variance with parking in the front yard along with C-2 bulk variance for parking stall sizes. He explained that the new plans benefits outweighed the determinants by improving the parking layout, bettering the safety and access for safety vehicles to the site along with the design making the location much more efficient and functional for the business. Mr. Gaccione questioned that it should be D-1 se variance for automobiles sales as now including trucks and the definition of automobile sales does seem to include the dump trucks that are now being included by dealership to keep everything covered he believed that variance too was still needed not just the D-3. Mr. Cerino did add to the testimony that trucks under definition by manufacturer are vehicles over 30,000 pounds and that the dealership does not sell any trucks over 30,000 pounds so still covered under automobiles. There was discussion over whether the use variance was needed based on selling trucks. Some board members wanted condition that only sales of vehicles under 30,000 pounds. Mr. Sullivan brought up that the owner is licensed to sell certain types of vehicles and Mr. Cerino explained his licensing through the state is only for vehicles under 30,000 so he would not be able to do so. They all agreed including Mr. Jacobsen and owner to compromise with weight vehicles sold as condition than put it in type of trucks and such.

Public Questions for Mr. Williams: None

At this point Mr. Greenberg closed his testimony for the application.

Public Comments:

Richard Alioa, 26 Malvern Place

Mr. Alioa explained he had worked in automobile sales for 26 years and recently has seen many with same problem of inventory size and numbers required. He commented that

they could lease offsite for storage space and that could allow for better display. He also believed that just cause this use was allowed in past does not mean they need to allow it again and to allow more of it and no need to compound the problem. He asked the board to enforce the master plan and to not allow any more parking in the setback. He does not want to see Bloomfield Avenue look anymore like Route 46.

Public portion closed.

Mr. Sullivan commented that there was already problem with the site prior to the application coming in and there were a bunch of cars on display over limit previously allowed by strict number. This new plan now allowed to improve the problem by allowing more into the same area as before but had set plan that improved access to the site and improved the parking layout and access for emergency vehicles. He saw this as positive to site and he was in favor of the application plan. He also remembered the owner in previous testimony stating that he had several offsite parking lots for storage and that did not help with number of models that he had to keep on site which previously testified to being about 140.

Mr. Denton expressed that he would take objectors point but like Mr. Sullivan reasons believed this was much improved plan even from beginning of application. He believed that if it was only about adding more cars to front display he would not be in favor but with the improved site plan he was in favor.

Mr. Russo did not believe more storage off site was the answer either as that would just increase the already half dozen deliveries coming into dealership daily. He believed the demands put on the owner by Chrysler had hand cuffed him in what needed to do to keep his business. He also expressed as others that the new plan improved the situation with landscaping and safety features.

Mr. Conlon agreed with Mr. Denton that number of cars is way beyond 2005 resolution approved but the new plan had advantages with clean up of the site, improving flow of site, and just clarifying the whole thing making it easier for inspector to enforce. He also would like condition of bigger vehicles being hidden that he had previously objected to seeing out in front on display. He would not have a problem with the application being granted.

Mr. Lundy believed that approving just based on the hardships put on the owner by Chrysler was not enough that they could be back in front of the board in several years if Chrysler started making Fiat sized cars and then they would look to have more in the display area. But he reluctantly approved the application however based on improvement of safety to site. That the new plan was a dramatic improvement but still had problems with whole scenario which is why he did not approve a dealership going in to site originally.

Mr. McGinley believed there were no physical changes to the site but that the use was being intensified. He felt they could not comply in past with the restrictions set and what would and why would he believe they would now. He felt that they did not see full landscaping plan and only showed parking but now real plan for striping showed. He believed that allowing it was going based on owner stating new and more regulations put on him by Chrysler yet there was no proof to these requirements stated. He believed Mr. Vogt upgraded application and he could accept it as a solution just for Code official to keep more vigilant watch on and enforce better. He encouraged them to keep to what he

said and follow the plan this time. Mr. Sullivan added to that hardship for the business does not constitute hardship for the property or land.

Mr. Zichelli agreed that they should not be concerned with the hardship put on the owner but to look at the site and the difficulties of it. He does not like idea of cars being stacked in front for display and would ideally like them behind the building but that is not possible and they have to look at what they have to deal with. He believed the plan they proposed waste best for the site at this time.

Mr. Gaccione reviewed the conditions for the application agreed upon and authorization of owner applicant to allow on property policing of the approved upon conditions. He listed conditions; front yard no dump trucks and limited to 4 pickups 1 plow with restriction of 3 on westerly corner during three months October through December, provide adequate employee parking on site, trees planted.

It was agreed upon to have landscape committee of Ed Conlon and that in 2 months there be a new submitted site plan showing it. Mr. Cerino suggested meeting prior to that on site with him, Mr. Jacobsen and with the applicant's landscape architect.

Mr. Gaccione also added that hardship considered will not be Chrysler and the new standards put on the business by them.

Mr. McGinley also added the breakaway fence no longer being needed that Mr. Cerino stated there is a chain fence there now.

Mr. Jacobsen asked that the fire lanes be painted in.

Mr. Sullivan motioned that with the conditions mentioned that case 2013-04 be approved; Mr. Zichelli seconded the motion; 6 votes aye and 1 vote nay. Application was granted.

Meeting was adjourned at 11:18 PM.

Respectfully submitted
Kelly Lawrence
Board of Adjustments Secretary