

Minutes of a Regular Meeting of the Verona Board of Adjustment on Thursday August 10, 2017 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, Ed Conlon, Michael Zichelli, Pat Liska, Alt#1, Colleen D'Alessandro Alt #2.

Also present: Michael Piromalli, Esq. and Thomas Jacobsen, Township Construction Code Official

Absent: Louis Russo

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

Mr. McGinley, Chairman called meeting to order at 8:02 PM. He leads the Pledge of Allegiance. 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 end of the meeting.

Application:

**Case 2017-213 Kai Olderog
 23 South Prospect Avenue
 Block 1807 Lot 1**

Mr. Piromalli offered proof of service was in order.

Kai Olderog applicant for 23 South Prospect Avenue is sworn in.

Mr. McGinley requested Mr. Olderog to explain what he proposes to do. Mr. Olderog explained his Application is for a D Variance for a school in what is currently occupied by Calvary Lutheran Church, which currently has 35 parking spaces. Proposing to expand use to include a school for grades 1 – 7. Church has been used for a number of years as a Montessori School. The district allows both uses, house of worship and school; both in combination requires the D Variance.

Mr. Denton asked if it would no longer be a church. Mr. Trembulak responded the need for the D Variance is for the use of building Monday through Friday for a school and would never be open the same time as the church. Bible study never operates simultaneously with respect to traffic. Application for parking for church and school is 35 onsite parking spaces. The need for parking is minimum it is for picking up children and dropping off.

Mr. Olderog will discuss Acton Academy.

Kai Olderog
30 Glen Road
West Orange, NJ

Mr. Olderog stated he entered into agreement for 23 South Prospect Avenue for a rental contract with the church for a private elementary school. Mr. Trembulak stated the church was

previously occupied by other schools and agreement would be to utilize some of the space within the church. Mr. Olderog stated there were two schools that operated within the church for a number of years. Mr. Olderog stated 1200 space consisting of 3 classrooms looking out onto the parking lot. Acton Academy is a micro school. It is a one room schoolhouse and there is 25 in operation around the world and is a growing system, combines joy and rigor. The average day starts at 8:45 a.m. with a circle and three hours of course skills of math, reading, reading and writing. They have to do a 6 week writing project. The afternoon could consist of Harry Potter learning quests. An entrepreneurship challenge of marketing, pricing and production. The children learn how to run a business for the day. The teaching is based on real life experiences. At the end of the day, the children are sent home without homework creating a love for grades 1 through 5. Mr. Trembulak stated the school would be for grades 1 – 7. Ultimately, it is the first school like this in New Jersey. Mr. Trembulak questioned Mr. Olderog if they needed lessons. Mr. Olderog responded they have lessons and going to accredited. Mr. Trembulak questioned Mr. Olderog if students that graduate would go to a private or public school after. Mr. Olderog responded they would. Founders have visited every site, there is video surveillance, and surveys are sent out every two weeks. Mr. Trembulak questioned Mr. Olderog how many students he expected to attend. Mr. Olderog responded 25 to 27 students would be likely with a maximum number of students of 30 to 37. The students can learn by the older students helping the younger ones. The students would all be in the same room. The space would create a magical environment and attract the right families and values. Mr. Trembulak questioned Mr. Olderog if there would never be more than 35 students. Mr. Olderog responded no. Mr. Trembulak stated the space limits the number of students. There can be no more space there could only be 35 students. Mr. Olderog stated students teach themselves using a guide they do not have a teacher they have a guide. There will be no more than one or two guides. Mr. Trembulak questioned what about other staff. Mr. Olderog responded three. Mr. Trembulak stated there would be two guides and yourself with a total of three people. Mr. Olderog responded there would be no other people in the building. Mr. Trembulak questioned where they would park. Mr. Olderog responded in the church parking lot. Mr. Trembulak questioned Mr. Olderog on how the children would be transported. Mr. Olderog responded by parents, there is no public transportation. 8:45 to 3:30 is the school day. There is a half hour of flexible time before 8:45 to socialize and do work on their own.

Mr. Trembulak questions Mr. Olderog on how the parents would drop the children off and he responded the parents park in the lot and reverse when picking up in the designated lot as it would be too complicated to drop the children off on the street and there is an abundance of parking in the lot. Mr. Conlon questioned Mr. Olderog if the children would be walked to the door and Mr. Olderog responded they would be.

Mr. Olderog responded church has Sunday service in the morning and one Saturday and two nights after school is over.

Mr. Trembulak stated at the end of the day children would be picked up at 3:30 and questioned if there would be any afterschool programs. Mr. Olderog stated the school may have one event during the evening but only once a month.

Mr. McGinley noted that my Mr. Russo arrived at 8:30 p.m.

Mr. Lundy questioned Mr. Olderog on his background. Mr. Olderog responded his background is in finance and Wall Street. The events that brought this undertaking of this project was to see his daughters grey eyes and losing sight of everything. The school would create grit and purpose in young people. Mr. Conlon stated to Mr. Olderog that he has not educational experience and Mr. Olderog responded that he does not. Mr. Conlon asked Mr. Olderog if he will be present at

the school and Mr. Olderog responded his role would be the lead of the school. Mr. Sullivan stated that Mr. Olderog would not be in the classroom on a daily basis and stated he has never been in a classroom and Mr. Olderog responded had not.

Mr. Olderog stated the curriculum is set by the founders from Austin, Texas. Its created based on Montessori schooling. Mr. Conlon questioned Mr. Olderog if the guides are licensed teachers and Mr. Olderog responded they are not. The approach is different, students learn from their own experience. Teachers are taught to control the classroom, enable and give thoughts to student where Acton will have guides.

Ms. Betty Wilson
9 Hill Street

Ms. Wilson asked Mr. Olderog the reason for his school as Verona has an excellent school system and why would they need this school and Mr. Olderog stated the country needs self-directed individuals; there are more families that are looking for something different.

Mr. McGinley asked Mr. Olderog if there are 7 or 8 students, are any from Verona. Mr. Olderog responded none.

Bob Good
114 Park Avenue

Mr. Good questioned Mr. Olderog if he could be directed to that his system is successful. 10 of the schools are in Texas. Is there documentation that what he is saying is true? Would like to look at a document. Mr. Olderog directed him to the independent studies. Mr. Olderog offered to give documentation after the meeting.

Greg Donahue
31 South Prospect

Mr. Donahue stated he lives directly across from the side entrance. Stated the study was done in June and July. Wanted to know the timeframe. Mr. Stimmel stated there was no traffic counts; he was there midafternoon and 6 pm. Mr. Stimmel was retained after school was out of session. Mr. Donahue questioned whether it undermine his finding and Mr. Stimmel said it did not.

Mr. Donahue asked Mr. Olderog if they did background checks and Mr. Olderog responded they do and they also go through a CPR course. The target date for the opening of the school is September 6th and there will be no renovations or construction.

Nicole Sampers
24 South Prospect.

Ms. Sampers stated she has lived here for 12 years and the traffic has grown. They lived there when the Montessori school was there. Mr. Olderog is questioned whether there are any afterschool activities planned and he responded there is none for now. If there were to be an event in the evening, it would be after 5. Mr. Olderog stated students arrive within the window of 8:15 to 8:45.

John McGirr
16 South Prospect

First place to look at a ...

Mr. Piromalli asked Mr. Olderog if he has ever been through a day at Acton Academy and Mr. Olderog responded yes. As a new owner, you have to go through the training. We must sit through a day seeing how it operates and there is a video feed so they can see and keep up with the standards. There is a good understanding of the curriculum. Acton has a community that is helpful to answer questions. They are there if they hit roadblocks. Mr. Piromalli questioned Mr. Olderog on how long the school has been in place and Mr. Olderog responded 10 years.

Matt Colona
2 Meadow Lane

Mr. Colonna lives directly across from the parking lot. The times that the school is open there are a lot of spaces in the street taken up and traffic during that time. Would like to know how the administration of entrance and exit signs. The lot is not striped and there are no signs. Mr. Piromalli stated the Board would address those issues. There are students going to HBW and OLL down those streets and cutting through parking lot. Concerned with safety of the entire block, there is a lot of traffic.

Mr. Colona questioned whether Mr. Olderog if he was ever part of a school board and Mr. Olderog responded he had been, a language school that was a preschool. Mr. Colonna as Mr. Olderog if the greeter will bring the children inside and Mr. Olderog responded yes.

Jessica Pierson
20 Montclair Avenue

Ms. Pierson questioned Mr. Olderog if there are any special needs children and Mr. Olderog responded a light case of dyslexia and ADHD, they do not have special training. Ms. Pierson asked if the website states that they do not take special need children. Mr. Olderog stated that they can try to accommodate. Ms. Pierson questioned if it is a-for-profit school and asked what the tuition is. Mr. Olderog responded under 10,000, hoping to lessen, hoping for 2,000. Ms. Pierson asked so you are looking to rent in a church, which is exempt from taxes. Mr. Olderog stated it is much more flexible than public school. Ms. Pierson questioned Mr. Olderog on whether the school could be expanded to high school level. Mr. Olderog responded the system goes through 12th grade. It could happen possibly in the future but not in this space, this site will not be used for 8th-12th grade. They will have gym class consisting of yoga and exercise and everyone will bring their own lunch.

Mr. Colona asked how many schools are in New Jersey and Mr. Olderog stated none.

Barry Cost
9 Hill Street

Mr. Cost stated there is three other schools in the area and concerned with emergency vehicles. Board stated that will addressed by testimony from a traffic expert.

There are no more questions from the public.

Board takes a five-minute recess to resume at 9:29.

Mr. Trembulak called witness William Stimmel to testify.

Mr. Stimmel is sworn in.

Mr. Stimmel stated he has a degree Civil Engineering from NJIT and graduated in 1999, work for 17 years as a planner and adjunct for NJIT. Licensed in Traffic Engineering. Licensed in both Planning and Engineering. Mr. Piromalli states he is an expert witness.

Mr. Stimmel states he reviewed site plan and visited site on several occasions and the traffic impact. He went over the variances and justifications of Land Use Law. Mr. Trembulak asked Mr. Stimmel to deal with the traffic and parking first and asked if Mr. Stimmel reviewed the proposed report with traffic during the time of school. Report is marked as Exhibit A-1 dated August 3, 2017.

Mr. Stimmel stated he is familiar with the proposed site that is at the Northeast Corner of South Prospect and Hill Street. The building is an L shaped building which contains the Calvary Lutheran Church. There are 35 parking spaces and 2 driveways from Hill Street. Estimated with 35 students based on the Institute of Transportation Engineering. On Page 2 Table 1, existing church based on the ITE is 560. 1,900 square feet of the building is an independent variable. Considered about 2 trips for school for grades kindergarten through 8th. Based on 35 students there would be 32 trips on weekdays, 21 in the evening and 0 in the evening. Traffic counts for schools are normally done between 2:30 p.m. and 4:30 p.m. This is small increase in traffic in not significant. School is considered a permitted use the church is a permitted use. The church and the school would be operating as separate entities.

Mr. Denton stated the school is a permitted use and the church is a permitted use. Questioned what was the reasoning they could not be permitted together.

Mr. Lundy stated the full capacity would be 35 students and the first year there are 5 students enrolled.

Mr. Stimmel stated the Construction Official noted the parking requirement for the church is 65 spaces and the requirement for the school is 10 spaces for a total of 75 spaces. There would be no overlap between the two uses. Shared parking concept. 35 spaces, 3 for staff members, leaves 32 for 35 students during peak capacity. Everyone doesn't arrive at the same time, some students could walk. Justifies parking variance.

Mr. Denton stated NJ Transportation noted that 100 trips in this area would be significant. Mr. Stimmel stated that what would be significant in one area may not be in another. Mr. Stimmel stated that they use the rule of thumb. Mr. Denton asked if the rule of thumb has any impact here. 100 trips or 50 in this area is a completely different situation than another area could be. 32 additional cars in an hour period on Hill Street? Significant is where you are located. Mr. Stimmel stated traffic would disperse quickly, students would not all be coming or going together.

Mr. Denton stated how does the 32 trips, what roads would they use to get to that location. Mr. Stimmel stated he didn't go into that level of examination. Bloomfield and local side roads. Mr. Denton asked when he went to the site. Was there end of June, beginning of July and July 10th. Mr. Denton stated there is an elementary school at the corner. Mr. Denton stated there is an elementary school at the end of the block. Mr. Stimmel didn't go to the site at the time that school was in session. Mr. Denton stated there is significant traffic between September and June. Obviously adding to that could put traffic over the edge.

Mr. Denton stated 35 students could push the traffic over the edge.

Mr. McGinley questioned Mr. Stimmel if trips would impact the streets and Mr. Stimmel responded no. Mr. Stimmel said the pool of children will be a finite number and the school could possibly draw from other schools on the street.

Mr. Jacobsen stated the parents will be parking and students will be walked in. He questioned if there will be enough spaces for parents to park. Mr. Stimmel stated there is enough parking for three staff members and parents. Some students will walk. The requirement for the school is only 10 spaces.

Mr. McGinley asked if there are any more questions. There are not.

Mr. Trembulak asked Mr. Stimmel to discuss existing zoning. Mr. Stimmel stated the church is in the semi-public zone and there is a house of worship there. The school makes the requirement for the D Variance. The ordinance does not allow two uses at the same time residential and retail. Church and school cannot be in State of New Jersey. There are some similarities between the two elementary schools limited to 35 students similar to a day care. Would like to know of the after school activities will it be similar to a daycare. Nothing happening after 6 pm and on the weekends. Similar to a daycare.

Mr. Trembulak stated if church was going to operate the school, a variance would not be required. Could make that argument. It requires a D1 Variance there is both positive and negative criteria. Church is a beneficial use...Positive criteria are not applicable with this parcel, positive is satisfied. Was proposing no issue with damage...No...purpose of land use law is that they advance to two principal uses between the two uses operating at the same time, school and church. Standard is a balancing act, balance nature of use and detriment to public good what would be the negative impact. The traffic would be the only negative impact.

Mr. Piromalli, stated schools and churches are both recognized by statute. Both are not permitted together. Beneficial uses balance the negative criteria. The main concern seems to be the traffic. The number of students would also need to be limited. Mr. Trembulak agrees on the C-2 Variance, Land Use Law.

Mr. Stimmel stated the variance would be for parking for C-2 Variance, flexible. To support positive criteria. Zoning ordinance doesn't allow for both uses at the same time. Cannot see any detriments in granting variance. Church will not be impacted. Mr. Denton stated that if church closes down, what size school could operate there, a much larger one Mr. Stimmel said he cannot answer that at this time. Cannot understand why church and school cannot operate together. Purpose of the restriction. Mr. Stimmel stated the ordinance is detailed. Mr. Denton asked if there is a restriction between church and school or restriction on mixed use. Mr. Stimmel stated allowed a principal use, circumstance is not included.

Mr. Piromalli stated it's not the Board's responsibility to determine if Acton is a positive or negative learning environment. Believe they wanted to give us picture of the school, but not Board. Mr. Denton stated obligated to view and not determine if it is a positive or negative learning environment.

Mr. Conlon asked Mr. Stimmel if there are two curb cuts and Mr. Stimmel stated yes. Mr. Stimmel said the signs would be a reasonable request. Mr. Stimmel stated the requirements for the parking variance is a C-2 Variance.

Mr. Conlon stated there should be revisions to parking lot including entrance and exit signs.

Parking variance requested for C2, flexible B Variance outweigh any detriments. 35 spaces combination have two uses 35 required needs, address needs in, negative criteria church will not be impacted.

Mr. Denton asked what size school could open there if there was no church. There would parking be operating a church and school what do you think is the reason?

Mr. Piromalli stated what is prohibited is two mixed uses on a lot. Cannot have a mixed use this is an oversight across that board. Could be considered an accessory structure and use separate principal structure.

Mr. Trembulak stated proposed currently has requirement of 10 spaces if school could triple in size would parking be 3 times, 30 spaces. Would be parking if parking if school was three times the size.

Mr. McGinley asked if there are any questions from the public.

Ms. Sampers stated they do not address the issue on the trips that would be conducted and would the traffic be less than 30 cars.

Ms. Pierson asked if there was a plan for the church to start a school and Mr. Trembulak stated no.

Mr. Colonna stated he is trying to understand why the site was visited during a time that the site would not be in use. Mr. Stimmel stated he visited the site but did not do traffic counts. Mr. Colonna questioned when the site was visited and Mr. Stimmel answered 6 pm on July 10th and 10 am or 11 am in June and July.

Handicap ramp would make no changes to parking lot.

Mr. McGinley stated the public portion of the meeting is closed at 10:36 p.m.

Mr. McGinley stated the meeting is now open to the public.

Mr. McGirr stated traffic backs up all the time but not in July. Traffic backs up on Hill Street to Bloomfield Avenue.

Ms. Sampers stated the possibility of 35 students gives comfort to some degree and daycare could be a lot more if this application is denied. Traffic is a huge issue coming in and out of driveway. A huge issue between 8:15 and 8:45 with a staggered drop off. Forest Avenue School there is a huge traffic issue. Concern is the traffic on Hill Street.

Mr. Donahue states there is a safety issue with so many young children in that area and there is a lack of safety considered ...added to docket in July

Mr. Denton stated if we deny this application a daycare could go in with 40 children as a Montessori school, which would be more kids.

Mr. Donahue stated carpooling does happen.

Mr. Lundy stated keep focused on the 35 children and the school currently has five children enrolled.

Ms. Sampers stated she would not oppose a Montessori school. Did not feel that impacted much similar with the immediate community.

Ms. D'Alessandro stated there will be a staggering of children from 8:15 to 8:45.

David Behlen
President of the Calvary Church

Mr. Behlen stated the church is not here for money making deals. As far as the traffic, since 97 they had a daycare there with 32-36 spots. Traffic was not a concern years ago. There were enter and exit signs. They could expand, they are open to suggestions. There are 32 spots right now. The church is here to help the community and Kai.

Mr. Colonna stated he lives directly across from the parking lot and is concerned on how they are going to drop off the children.

Mr. Piromalli stated a condition could be the lot will be striped and enter and exits signs be install administrative how people are to drop off students. Most parking spots are not taken up.

Mr. Donahue stated if the application is approved it must stipulate...photo taken of Hill Street from August 10th at 7:45. Photo Number 4.

Mr. Cost questioned how they are going to guarantee the parents drop off in the parking lot.

Mr. McGinley stated there is no guarantee. He lives across from Laning School. There will be some things they will have to guarantee. Mr. Trembulak stated the D Variance was not for the 35 parking spaces but the church and school to operate independently. Use that is proposed is permitted. Private schools are permitted in this district. The entire...could be used as a private school without requirement a variance. Parking would allow for 30 spaces. If the church proposed to operate a school, it would be a permitted use. Could have a more school than what being proposed. There will never be more than 35 students. Second use is permitted and it is beneficial. All schools are beneficial point of the church. Board focuses on the negative criteria 4 space balancing how important is that rated high on school of beneficial uses. Increase in the traffic will be expected. There will be an impact on traffic. The third part is the Board is required to see if there are conditions associated with the use. Last point is detriment. The negative impact has to be significant. Thirty cards during a ½ hour in the morning and before rush hour doesn't deem to be significant. The school is permitted just not with the church. There are no ABA space have a report from the other condition they have is dropping off and picking up that would meet improvements to the parking lot and effects on the traffic.

Mr. Denton stated this is a difficult application no doubt is the congestion to the area and the impact on traffic. The D Variance associated with the mixed use of a project in that it is a school operating in a church. Could possibly be a school with a 100 students? There is an opportunity to limit the number of student to 35. The church could decide they will open a Montessori school with 35 children and there will be the same effect. Given this would positive versus negative effect between approving application.

Mr. Liska stated Montessori school had some conditions.

Mr. Conlon stated he agreed with Mr. Denton the traffic should not be detrimental and there could be another school there with the same starting time. Mr. Zichelli noted he is in favor of the application. Mr. Lundy stated both uses are permitted in this zone. There is a quirk in the local ordinance. ...to be open to a different type of school.

Ms. D'Alessandro agreed and that through firsthand experience with that area and with proper management of people dropping off this would have a significant impact. Mr. McGinley stated the most effective drop off at the school was when the principal was out.

Mr. Sullivan stated the maximum number staff would be three and another school could have a larger staff.

Mr. Sullivan stated overlap of other schools in the area. Everybody doesn't leave at the same time. Mr. Trembulak stated it would take a number of years to get the maximum number of students. They will be starting out with 5 to 7 children. Mr. Sullivan stated they could limit programs to two nights a month and not at the same time as the church. Ms. D'Alessandro stated they cannot dictate the school's program. No overlap of church and school programs. Mr. Piromalli stated they could require no overlap of church and school activities.

Ms. D'Alessandro stated the drop off time at the schools is staggered. Crossing guard leaves promptly at 8:30. Mr. Denton stated no everyone arrives at the same time. Ms. D'Alessandro questioned why the property owner is not applying for variance. Mr. Piromalli stated leasee has legal standing to file application. Owner could have filed but would have to bare the expense. Owner did approve of the application.

Mr. McGinley asked Mr. Piromalli to go through the conditions of the application.

Mr. Piromalli stated the conditions for this application as follows:

1. Maximum number of students is 35 in grades 1 through 7.
2. Maximum number of staff is 10.
3. Parking lot will be striped up with arrows showing entrance and exit.
4. After school activities at 5 p.m. and not to overlap with church activities.

Mr. Denton made a motion to approve with conditions. Mr. Zichelli seconded the motion. All votes aye. Application granted.

Mr. McGinley noted Mr. Russo left at 9:25 pm.

Application:

**Case 2017-214 Brittany Lane
 460 Bloomfield Avenue
 Block 701 Lot 1**

Adjourned to September 14, 2017 meeting.

Minutes:

Minutes from the July 2017 regular meeting. All votes aye, minutes approved.

Resolutions:

Osher – 19 West Lincoln Street; All votes aye, resolution memorialized; Mr. McGinley abstained since he was not present at the July meeting.

New York SMSA – 378-380 Bloomfield Avenue; All votes aye, resolution memorialized; Mr. McGinley abstained since he was not present at the July meeting.

Cerle – 37 Depot Street; All votes aye, resolution memorialized; Mr. McGinley abstained since he was not present at the July meeting.

Meeting was adjourned at 12:00 AM.

Respectfully submitted,

Kristin Spatola
Substitute Board of Adjustments Secretary