

Minutes of a Regular Meeting of the Verona Board of Adjustment on Thursday May 11, 2017 beginning at 8:00 P.M. in the Verona Community Center, 880 Bloomfield Avenue, Verona, New Jersey.

Roll Call:

Present: Daniel McGinley, Chairman, Ed Conlon, Larry Lundy, Louis Russo, Sean Sullivan, Michael Zichelli, Pat Liska, Alt#1, and Coleen D'Alessandro, Alt #2

Also present: Robert Gaccione, Esq, Thomas Jacobsen, Township Construction Code Official, and Jim Helb, Township Engineer

Absent: John Denton, Vice Chairman

Tardy: Louis Russo

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

Mr. McGinley, Chairman called meeting to order at 8:03 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 next regular meeting.

It was put on record that Mr. Russo was in attendance for the meeting.

Application:

**Case 2017-05: Kevin & Mary Hipp
Block 203 Lot 37**

Mr. Gaccione offered proof of service was in order. He also noted that Mrs. D'Alessandro was served notice by the applicant as a neighbor in 200 feet and therefore could not sit on the Board and hear the case. Mrs. D'Alessandro left the podium and sat in the audience.

Kevin and Mary Hipp, homeowners for 50 Sunset Avenue, were sworn in.

Mr. Hipp explained to the board that they have lived in Verona for 14 and half years. They have 3 children that go to school and participate in athletics in town. They are looking to put an in-ground pool in their yard to utilize for exercise, entertaining and having fun with their children. They explained how much love their home and the history behind the house. They are looking to extend their time in the home. When they decided to put in the pool, they thought there would be an issue with slope in the rear yard and they are hoping to work that out with the town. Mr. Hipp brought along the Engineer and Pool Builder that came up with the design for the pool to explain more about the details of the project.

Mr. McGinley stated that the issues for the project that the board was hearing on was for maximum improved lot coverage and for steep slope ordinance.

Jeffrey Egarian, professional engineer, was sworn in. He gave the Board some of his credentials being a NJIT graduate, being a licensed profession engineer and that he had testified before numerous boards before just not this one. Mr. Sullivan moved the Board accept him as an expert witness in Engineering; all agreed.

Mr. Jacobsen asked the Board if they would like Mr. Helb to explain the steep slope ordinance to everyone. Mr. Helb explained the ordinance was official in April of 2016. Steep slope ordinance is new to Verona but not unique and is common in many municipalities. This was first recommended by the Environmental Commission, and then sent to the Planning Board to review for recommendations to the governing body. The original had all properties in Verona subject to the ordinance. With discussions, the ordinance ended up focusing on larger residential zones and all commercial zones. Verona is not gently sloping being between 2 mountains. He does analysis of the slopes, steepness, and levels of steepness before Mr. Jacobsen issues a permit for work. He explained further details that are in the ordinance about slope percentages and prohibitive slopes or major slopes, which are 25% in excess. Then with the ordinance it is determined if the sloping terrain can create and affect erosion and runoff. Mr. Helb explained this case is unique and first to come before the board but is unique to the area. The work on this property is where the 25% steep slope. He explained that through testimony or submittals as to whether to grant variance, "C" variance, if mitigation is required and stipulate with any resolutions. Applicants provided the necessary paperwork and information required. Mr. Conlon asked Mr. Helb if he felt this project would be considered a major disturbance. Mr. Helb expressed that he did feel it was. Mr. Helb also explained that if Board felt that the intention of the ordinance was satisfied and the applicant demonstrates that they meet the criteria the Board could approve.

Mr. Gaccione started discussion on variances. "C" variance was mentioned by Mr. Helb as part of the Steep Slope Ordinance and with those a hardship needs to be shown and benefits need to outweigh the negatives. He felt the variance being needed was for improved lot coverage and that steep slope would be addressed. Mr. Helb stated that it is 2 variances needed improved lot and steep slope. Mr. McGinley stated that when all was said and done whether variance or not there were two items that the Board needed to agree on, coverage and steep slope.

Mr. Egarian testimony began with him explaining the application was to install an in ground pool with retaining walls and patio around the pool. The applicants need relief for improved lot coverage and steep slope. The applicants' lot has a hardship because it is on a steep slope. When they looked at the project the best location for the pool with optimum access and allowing there to still be space for lawn and play area, the pool would best be located in steep slope area. He explained the pool would be built out of ground with walls and no impact on any other slopes of the property. There would be no grading or digging involved with the way the pool would be built into the area of the backyard. He felt there would be no impact on erosion. The area around walls and pool patio would be hand seeded, mulched, heavily landscaped, and would guard neighbors on down slope as well. They would be creating flat area where the pool would be located and the rainwater would be held there and in the pool. The pool is 974 square feet and has 6 inches of free of free board above water surface that would hold a bit of rainwater equaling about 3600 gallons of water. He saw no increase in storm water. He addressed the improved lot coverage explaining that there was an existing detached garage at the rear of the property with a driveway running all the way back to the garage from the street. The driveway starts narrow and widens by the garage to hold 2 cars. Existing back patio is not large and is just enough to hold a table and chairs. The patio being put around the pool is standard size.

Mr. McGinley asked with the new pool area the runoff is reduced from what exists on the property with the slope. Mr. Egarian said in his opinion he believed yes it would reduce the amount and the velocity of runoff. Mr. Conlon asked with the pool being built up how deep would they actually have to dig for the pool. Mr. Egarian explained that the most would be 5-6 feet in the worst corner, which is the top left corner. He explained it was an 8-foot deep pool and would go down slope less and less. Mr. Conlon asked if any soil tests had been done to see what was under the ground. Mr. Egarian stated that none was done but anticipated that first few feet

would be old fill from when house was built. Mr. Conlon also asked if the pool would increase storm water to Mount Prospect Avenue behind the property. Mr. Egarian that with the patio there sheet flow but the landscaping and mulch and plants it would help the runoff. Mr. Liska asked if there was a drainage plan. Mr. Egarian explained that the applicants were not opposed to putting in drywell the size to stratify the Township engineer and submit plan for approval if the Board requested. Mr. Russo suggested that the mulch and shrubs were not as good as the drywell would be. MR. Gaccione asked where they proposed to put the drywell. Mr. Egarian explained that the best would be behind the pool in the lawn area. Mr. Gaccione stated that if the board sees fit it could be conditioned in for a drywell to be put in with Mr. Helb's review and approval. Mr. Jacobsen asked if the backwash from the pool would go to the drywell as well. Mr. Egarian stated yes and that would be calculated into the plans. Mr. Conlon asked Mr. Helb what type of drains should be used from pool area to drywell. Mr. Helb suggested yard rains from pool deck area and garage to the drywell. Mr. Conlon asked where the drain currently by the garage goes to. Mr. Hipp explained when the driveway was resurfaced the company put into the drain and it is a ceramic pipe that drains to the back bed along the side of the garage. Mr. Helb asked if there was way to minimize the patio that extended out on the left side. He suggested that would also be a way to minimize the runoff. Mr. Conlon suggested that minimizing would also be way to minimize the improved lot coverage. Mr. Egarian stated that yes t could be reduced to the 3-foot walk and put the retaining wall right up to it. With quick calculations, he stated that would reduce about 30 square feet from coverage. With changes, it also push back 35 square feet of access of steep slope. Mr. Helb asked why the pool was located there and not pushed back further into area that would satisfy steep slope. Mr. Hipp explained they were hoping to still area for kids to play sports and things below. Mr. Helb also asked why that size of pool. Mr. Hipp explained the size of pool was reasonable for size of his family and what they wanted to accomplish with having a pool. Mr. Egarian stated that it was an average size pool and spa with coping wall around it.

Thomas Fitzsimmons, pool designer for Artisan Landscape and Pools, was sworn in.

Mr. McGinley asked about the appropriateness of the pool planned. Mr. Fitzsimmons explained this was an average to low average size pool and spa. Mr. Helb asked if this was traditional decking for the pool. Mr. Fitzsimmons explained that the decking is typically 2 to 3 times larger for a pool size usually. This project is smaller and more simplistic. Mr. Helb asked about pool lighting proposed. Mr. Fitzsimmons explained the pool was a gummite pool with interior lights that would have no impact on the neighbors. Lights would shine towards house if they go with LED lights suggested there would less impact. Mr. Helb asked about fencing for the pool. Mr. Fitzsimmons explained that there is currently a fence that surrounds entire property that is not pool code and that there would fence going in around below the wall that would meet pool code. Mr. Helb asked about the pool equipment. Mr. Fitzsimmons explained it was on west side of garage and screened with plants. Mr. Helb asked about trees being removed. Mr. Fitzsimmons explained that there were 3 pine trees being removed that were not in good shape and need to go. He pointed out 3 x's on Mr. Egarian's landscape plan that showed these along with replenishing of trees and plants that would be along entire wall to screen pool and hide wall. Mr. Egarian's landscape plan was marked in as Exhibit A-1. Mr. Helb asked if the retaining wall at the point where it is 6 feet high if there would be a fence on top of it. Mr. Fitzsimmons said no that there would be hedging on the high sides. Mr. Lundy asked what the projected time line for the project would be. Mr. Fitzsimmons stated it would be a 3-month project realistically.

Mr. McGinley asked if Mr. Egarian had chance to look at the Environmental Commission comments that disagreed with his coverage calculations. He stated he was confident his numbers were correct and that was not certain and could not verify how they got their numbers.

Public Questions & Comments:

Linda Stark, 54 Sunset Avenue

Mrs. Stark explained she was the neighbor that is right next to the Hipp's on the side where the pool was going in. She explained she has lived there for 40 years and used to have flooding problems. She now has drains and was concerned being downhill from their property with drainage. She stated based on what she heard it sounds like all her concerns are being taken care of and thinks this is wonderful project.

Mr. Conlon asked where the pool was in relation to her property. Mrs. Stark stated it was by her yard and not near her house. She had nothing back there that she was concerned about during construction.

Public closed.

Mr. Egarian inclosing stated that with the project they would adhere to criteria for major steep slope ordinance. There would be no major cut into land; the proposed is on surface and build up around it. In regards to erosion, any disturbance would be mulched and stabilized. For rain flow, neighbors would not be effected with seepage pit proposed. He felt the benefits outweighed the negatives and that there was no deterrents.

Mr. Jacobsen also requested that if approved hay bales be put around yard during construction.

Board Comments:

Mr. Conlon stated that the improved lot issues were dealt with and not a problem. He had questions about the drainage and would like applicants to talk to Mr. Helb so it be structured properly and he would be ok with application being approved.

Mr. Zichelli explained it was a large area and did not expect this to cause much of an issue with drainage. He also explained that the proposed patio and coverage did not make much of difference from already existing because of long driveway.

Mr. Russo had no concerns.

Mr. Lundy explained this something seen before with long driveway to detached garage in rear of property, which skews the improved lot coverage. The steep slope is new to all and the homeowners are reasonable to work with and do what is needed.

Mr. Sullivan had nothing to add.

Mr. Liska stated he had all issues addressed with applications. He asked that new plans be submitted with coverage, landscape, drainage and conditions addressed. Mr. Sullivan added that the new plans be subject to Township Engineer and Zoning Official review and approval.

Mr., Gaccione reviewed conditions for application; landscape plan to be submitted and reviewed by Jim Helb, Tom Jacobsen and landscape committee, drains to drywell from pool and garage area, drainage plan approved by Jim Helb, pervious area increased 35 square feet in area of prohibitive steep slope.

Mr. McGinley stated the landscape committee consist of Ed Conlon and Pat Liska.

Mr. Sullivan motioned case 2017-05 be granted with the conditions discussed; Mr. Conlon seconded the motion.

All votes aye. Application granted.

Mrs. D'Alessandro joined Board at podium.

Minutes:

Minutes from the March 2017 regular meeting. All votes aye, minutes approved; Mr. Conlon and Mr. Lundy abstained since they were not present at the March meeting.

Resolutions:

Casalino – 10 Howard Street; All votes aye, resolution memorialized; Mr. Conlon and Mr. Lundy abstained since they were not present at the March meeting.

Wrobel – 85 Personette Street; All votes aye, resolution memorialized; Mr. Conlon and Mr. Lundy abstained since they were not present at the March meeting.

Paniagua – 59 Morningside Road; All votes aye, resolution memorialized; Mr. Conlon and Mr. Lundy abstained since they were not present at the March meeting.

Benevento 464 LLC – 460 Bloomfield Avenue; All votes aye, resolution memorialized; Mr. Conlon and Mr. Lundy abstained since they were not present at the March meeting.

Meeting was adjourned at 9:32 PM.

Respectfully submitted
Kelly Lawrence
Board of Adjustments Secretary