

Minutes of a Regular Meeting of the Verona Board of Adjustment on Thursday March 9, 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, Louis Russo, Sean Sullivan, Michael Zichelli, Pat Liska, Alt#1, and Coleen D'Alessandro, Alt #2

Also present: Robert Gaccione, Esq.

Absent: Edward Conlon, Larry Lundy

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

Mr. McGinley, Chairman called meeting to order at 8:05 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.

Application:

**Case 2017-02: Gerald Casalino, 10 Howard Street
Block 2107 Lot 19**

Mr. Gaccione offered proof of service was in order. The applicant served closest neighbors personally and the rest certified mail.

Gerald Casalino, homeowner for 10 Howard Street, was sworn in. Jacob Solomon, architect who prepared plans for the applicant, was also sworn in.

Mr. Solomon gave the board his background and qualifications to be considered an expert in architecture. Mr. Gaccione confirmed the board would accept his qualifications as an expert in architecture.

Mr. Solomon explained to the board the applicant is before the board for maximum improved lot variance and a side yard setback one variance. The applicant's home is located in the R-50B medium/high density residential zone. He further explained the applicant, Mr. Casalino, is looking to put a one-story rear addition on his house. They would be removing the pantry area in order to extend their kitchen with a powder room and laundry area. The side yard of the new would align with the existing house that is non-conforming. The existing dwelling sits 4.2 feet from the side property line, which is non-conforming to the 8 feet requirement. Therefore, the applicant needs a variance for 3.8 feet in the side yard setback. He had board look at page A-2 of plans which shows the floor plan and he explained that if they bumped the addition in to conform to the setbacks that the addition would be less functional for the house. The neighbor that is on the side with the on conformity, their driveway sits by that side of the Casalino's property making the distance over 10 feet between both houses. He further explained to the board the current improved lot coverage on the property is 38.8 percent and with the proposed addition and new deck, the coverage would go up to 42.1 percent. Therefore, the applicant needs 2.1 percent improved lot coverage variance. He also stated that the siding and roofing would match all the existing dwelling. The front yard is existing and they are not expanding that with the proposed work.

Mr. McGinley questioned if there would be windows that would look out to the neighbor's driveway. Mr. Solomon explained that there would not be due to codes for fire rating and penetrations. The design has windows to face the rear yard with a door out to the deck. Mr. McGinley also asked the reason for going over in coverage. Mr. Solomon explained that he included the dwelling, the addition the deck, patio, long driveway and rear shed in all the calculations. There is an existing deck and patio in the rear and with the addition; they would be making the deck smaller. If the board wanted, they could remove the patio but by code, they are required to have a 9 square foot landing at the bottom of the steps from the deck. He did the calculations and determined by removing most the 10-foot-by-10-foot patio other than the required landing the improved lot coverage would reduce to 40.5 percent. Mr. McGinley asked about the slope of the property. Mr. Casalino explained there was a slope to the property in the rear yard and the slope goes towards the house.

Public Questions & Comments: None

Mr. McGinley asked if the applicant was agreeing to cut the imperious coverage by removing the patio at the bottom of the deck. The applicant agreed to remove most of the patio leaving only the required landing per code.

Mr. Gaccione clarified with the removal and reduction in improved lot coverage; the variance would reduce to 0.5 percent for improved lot coverage.

Mr. Sullivan explained this is something common and seeing it more and more in the older homes in town that do not have bathrooms on the first floor. This is the type of application looking for they are either going straight back or straight up. He had no objections to the application.

Mr. Sullivan motioned case 2017-02 be granted with the condition the back patio be reduced to the landing; Mr. Zichelli seconded the motion.
All votes aye. Application granted.

Note: Mr. McGinley called on applicants for case 2017-03. The applicant stated she was still waiting for her architect so the board moved to the next application.

Application:

**Case 2017-04: Homero & Laura Paniagua, 59 Morningside Road
Block 1901 Lot 6**

Homer and Laura Paniagua, applicants and property owners, were sworn in.

Mr. Gaccione offered proof of service in order. He also noted that they served to all the neighbors personally. He asked the applicants if there were any objections as they spoke to the neighbors. The applicants both stated that there were no objections from anyone.

Mr. Paniagua explained to the board they are looking to install air conditioning in the house and they would like to put the condenser in the side yard. They are proposing the unit to be 6.03 feet from the property line and the requirement is 8 feet. They need a variance for 1.97 feet. He also explained that the neighbor at 61 Morningside, the house closest to this side yard, has their ac unit to other side of the same property line in question. One of the departments mentioned a tree and branches, the homeowner explained there were no trees near that location and that they had already taken down the tree.

Mr. Zichelli asked why they chose the side yard and not the rear. Mrs. Paniagua explained that they could not really use the side yard so they thought best area and anticipating the rear yard to be the best play area for future kids.

Mr. Russo has no problems with this application.

Public Comments: None

Mr. Russo motioned case 2017-04 be granted; Mr. Sullivan seconded the motion. All votes aye. Application granted.

Note: The architect for case 2017-03 still had not arrived so the Board moved to the next application.

Application:

**Case 2017-01: Benevento 464 LLC t/a “Dolce Marie”, 460 Bloomfield Avenue
Block 202 Lot 1**

Mr. Gaccione offered proof of service in order.

Alan Trembulak, attorney for the applicant opened testimony before the board.

He explained that the property is in the Town Center (TC) central business district zone at the corner of Bloomfield Avenue and Cumberland Avenue. The property has been maintained for many years as mixed-use building with three uses, offices and office furniture store on the first floor and residential apartments on the second floor. He explained his client is a party chef looking for a location to open her business, which would be a café with baked goods prepared by her on premises and light lunch. The applicant is looking to occupy about 700 square feet on the first floor of the building. The applicant is seeking relief for a use variance for three uses. The ordinance from 2011 says that in the zone there can only be two mixed uses not 3. Because of the new zoning in 2011, this made the building non-conforming. If his client rented the whole 1st floor, they would be going to permitted retail to permitted retail and would not be before the board. He explained he felt that this use by itself would be permitted but being in the building with others it is not. As his client is only taking up small space on first floor, there is a need to variance for conditional mixed use. They are asking relief granted to permit this use, which they feel, is good for Town Center. Mr. Trembulak stated he would have two witnesses to speak to the Board, his client and a planner. Also noted that they had floor plan prepared that day and they were handed to the Board to show seating and equipment in the space.

Mr. Gaccione clarified about decision made that proposed use is more intense than previous use and that why variance required. Guess more intense by way of traffic but Mr. Helb and Mr. Jacobsen not present to speak specifically as to why they felt it was more intense. Mr. Trembulak agrees with interpretation but not with concerns, specifically with parking that is not relevant in the district no parking requirements.

Mr. Trembulak called Marie Russomanno to testify.

Mrs. Russomanno was sworn in.

Mrs. Russomanno stated that Benevento 464 LLC is her business. She is in a lease agreement with the building owner contingent on Board approval for application. Mrs. Russomanno

explained she has been pastry chef for over 17 years, she went to school for it in New York City, and has worked locally in Fairfield, Montclair at restaurants as a pastry chef. She explained she had been looking for a space to open her own business in the area for a few years to have a small café. She found this location and thought it would be the perfect spot. She also told the Board that her father and mother also worked as a chef and caterer along with her grandparents having a butcher shop. She thought the location was nice with the park across the street. She explained she planned to serve baked items, scones, muffins, cakes, cookies with coffee or hot cocoa and some light lunches. The light lunches being simple sandwiches or paninis all prepared on site. She proposed to operate 6 days a week, including weekends from 7 am to 4 pm daily. She also planned on herself and two other employees at most because the space is small with 15-20 seats no more than 20. For the kitchen area, she plans on a 6-burner stove, convection oven, freezer, refrigerator, 3-bin sink, and one or two lowboy refrigerators. Cooking equipment to include an exhaust system and suppression system. She is aware that even with Board approval still needs approvals from fire official and health department. She would be occupying the first floor corner by Bloomfield Avenue where the office furniture store was located. She testified that there was another retail space in the building an upholstery store on the first floor. She stated deliveries would be made to dock in back with them coming once a week.

Mr. Liska questioned on whether this would be considered a retail bakery. He quoted the definition from the Zoning Ordinance on page 38 “retail bakery, any establishment primarily engaged in retailing bread and other bakery products not for immediate consumption made on the premises from flour, and not from prepared dough”. He felt that it fit more into the definition of “restaurant” which includes cafes. With it being considered restaurant makes four uses in the building. Mr. Trembulak agreed that either way they need a variance to put establishment in the location. Mr. Denton questioned what the four uses would be. Mr. Liska explained that it would be restaurant, retail, offices and residential apartments. Mr. Trembulak explained that all uses permitted but not all mixed.

Mrs. D’Alessandro inquired if catering would be also done from this location. Mrs. Russomanno explained that maybe if someone inquired about it but not something doing off the bat. Mrs. D’Alessandro also inquired about parking. Mrs. Russomanno explained that he building has its own parking lot with 13 spaces, 3 for tenants upstairs who are gone most of the day. The upholstery does not have much traffic. There is parking lot adjacent to building with driveway off Claremont and Bloomfield Avenue. There are also metered parking on street in front of store. Mr. Russo explained may have concerns of people stopping and parking illegally. Mr. Zichelli and Mr. Denton felt parking was not a concern it was not as intense use or any real issues. Mr. McGinley stated parking is not required but asked how many spots would be left for her shop.

Public Questions: None

Mr. Trembulak called Meghan Hunscher to testify as a professional planner.

Mrs. Hunscher was sworn in.

Mrs. Hunscher gave the Board a summary of her qualifications and explained that she has testified before several boards in state and Essex County as an expert. Mr. Sullivan moved to accept as expert in planning.

Mrs. Hunscher started by handing out photos of the site prepared by a colleague of hers. One was marked as exhibit “A-1 3/9/17”. These are colored copies of black and white photos in the Board members packets. Aerial photo on page 1, pages two and 3 photos of surrounding buildings and parking.

Mrs. Hunscher discussed the existing building with uses currently in it including a vacant office furniture space, office space, upholstery store all on first floor and apartments on second floor. The building sits as a corner lot on three roadway fronts, Bloomfield, Claremont and Cumberland. She spoke about the applicant looking to operate a bakery with some seating available for customers. Surrounding is mixed uses, multifamily residential, Walgreens, the park, some personal service places. The use proposed is permitted in the zone and the application more technical. There is no expansion of building or space or intensity in uses. The space has already operated with mixed uses. She feels this fits the idea of the Town Center and the master plan. This being a perfect fit for applicant, use and idea of the area. She concluded the benefits outweigh the deterrents.

Mr. Sullivan questioned that in the ordinance it allows two uses but more than two uses would need to come before the board, but does it mention a limit to the number of different uses the Board can permit. Mr. Gaccione explained there was no limit on the Board. Mr. Sullivan also explained that provisions for limited service restaurant there is no need for parking as long as under 50 seats in the establishment.

Public Questions: None

Mr. Trembulak stated he had no more witnesses.

Public Comments: None

Mr. Denton stated that he is very desirable business for the town and variance much more technical. He felt this application has no negatives and sees all positives effects to the downtown and good for the area. Mr. Sullivan was in favor of the application. Mr. Zichelli was pleased to see businesses like this trying to open in town. Mrs. D'Alessandro thought it was good idea only concerned with crossing Bloomfield Avenue. Mr. Russo had no problems with it and wished the applicant luck.

Mr. McGinley verify motioning would be for use variance and not the loading space variance. Mr. Sullivan added that it would be for limited service restaurant with a retail bakery as well.

Mr. Trembulak added in that they would comply with any sign ordinances for signs for the business.

Mr. Gaccione wanted to verify the two uses variance; they are looking to allow four uses, limited service restaurant, retail bakery and the other 2 uses on the premises.

Mr. Russo motioned for approval of case 2017-01; Mr. Denton seconded the motion. All votes aye, application granted.

Application:

**2017-03 Justin Wrobel, 85 Personette Avenue
Block 1605 Lot 13**

Cynthia Wrobel, owner 85 Personette Avenue, and Christine Miseo, architect, were sworn in.

Mr. Gaccione offered proof of service in order. In addition, noted all served certified mail.

Mrs. Miseo gave board all credentials and mentioned it had been about 10 years since last before Verona Board. The Board had previously accepted as expert witness in architecture in past. Mr. Sullivan motioned the Board continue to accept her as an expert witness.

Mrs. Miseo explained the applicant is looking to do a residential addition that needs variances for improved lot coverage and height. They are proposing to put an 1100 cubic foot addition with additional 500 square feet to each floor onto the existing 567 square footprint of the existing house. She explained that the property currently is at 39.6 percent improved lot coverage so anything more would need a variance. The site is well developed in the back with pool, patio and deck. The garage being setback 150 feet also adds to coverage with the long driveway to it. The planner mentioned ways to mitigate the coverage with drainage and the runoff from more coverage to the neighboring properties. The applicant is willing to do some retention tanks. The height is existing non-conforming and 32 feet 10 inches and the design will line up with the existing. The addition is to the side of the house. All siding will match the existing house. She also stated the applicant is willing to take the recommendations from commissions and other departments.

Mrs. Wrobel explained they have lived there 4 years. The house is small and they are expanding their family and need more room.

Mr. Sullivan stated this was not unusual updating a house and expanding.

Mr. Liska noticed that the site plan shows drainage to curbs that run to storm water drain so drainage is already addressed on the property. Mrs. Miseo agreed that there were two on the property one in the back corner and one midway.

Mr. McGinley asked if the widows lined up the neighbor windows at all. Mrs. Miseo stated she did not know but agreed to make any adjustments if needed so that would not line up.

Public Questions & Comments: None

Mrs. D'Alessandro motioned for approval of case 2017-03 with condition that windows do not line up with the neighbor's windows and siding match the existing house; Mr. Zichelli seconded the motion.

All votes aye, application granted.

Minutes:

Minutes from the December 2016 regular meeting. All votes aye, minutes approved; Mr. Denton and Mrs. D'Alessandro abstained since they were not present at the December meeting.

Meeting was adjourned at 9:42 PM.

Respectfully submitted
Kelly Lawrence
Board of Adjustments Secretary