

RESOLUTION 2021-14

IN THE MATTER OF THE APPLICATION

OF

MICHAEL DISCHLEY

**BOARD OF ADJUSTMENT
TOWNSHIP OF VERONA
ESSEX COUNTY, NEW JERSEY**

WHEREAS, Michael Dischley (the "Applicant") is the owners of property located at 114 Franklin Street, Verona, New Jersey, said property also being known as Block 1504, Lot 128 (the "Property"), which is located in an R-50 (High Density) Single Family Residential Zone;

WHEREAS, the Applicant filed an application with the Verona Zoning Board of Adjustment (the "Board") requesting the approval of bulk variances pursuant to N.J.S.A. 40:55D-70(c) to construct a new 12 foot by 12 foot deck which will be 6 feet in height above grade in the rear yard at the Property;

WHEREAS, the Applicant requested bulk variances from the maximum permitted deck height requirement where a maximum deck height of 4 feet is permitted pursuant to Verona Chapter 150-7.21.B and a deck height of 6 feet is proposed, from the minimum required rear yard setback to a deck where a minimum rear yard setback of 20 feet is required pursuant to Verona Chapter 150-7.21.D and a minimum rear yard setback of 16 feet to the deck is proposed, from the maximum permitted improved lot coverage requirement where a maximum improved lot coverage of 40% is permitted pursuant to Verona Chapter 150-17.5.D.4 and an improved lot coverage of 57.25% is proposed and from the minimum required rear yard setback requirement where a minimum rear yard setback of 30 feet is required pursuant to Verona Chapter 150-17.5.E.5 and a minimum rear yard setback of 16 feet is proposed; and

WHEREAS, the Board, after carefully considering the evidence presented by the Applicant at a public hearings conducted on March 11, 2021 and April 8, 2021 and giving due consideration to any questions and/or comments having been raised by residents who were properly notified, and having made the following factual and general findings:

- (1) The subject property is located in a R-50 (High Density) Residential Zone;
- (2) The Applicant seeks to construct a new 12 foot by 12 foot deck 6 feet in height above grade in the rear yard at the Property prompting the need for bulk variance relief;
- (3) Chapter 150-7.21.B of the Township of Verona Zoning Ordinances permits a maximum deck height of 4 feet and a deck height of 10 feet is proposed requiring variance relief of 6 feet;
- (4) Chapter 150-7.21.D of the Township of Verona Zoning Ordinances requires a minimum rear yard setback of 20 feet to a deck and a rear yard

setback of 16 feet to the deck is proposed requiring variance relief of 4 feet;

- (5) Chapter 150-17.5.D.4 of the Township of Verona Zoning Ordinances permits a maximum improved lot coverage of 40% and an improved lot coverage of 57.25% is proposed requiring variance relief of 17.25%;
- (6) Chapter 150-17.5.E.5 of the Township of Verona Zoning Ordinances requires a minimum rear yard setback of 30 feet is required and a rear yard setback of 16 feet is proposed requiring variance relief of 14 feet;
- (7) Applicant Michael Dischley and his spouse Lindsay Dischley were sworn and began to present testimony in support of the application;
- (8) Applicant Michael Dischley explaining the proposed deck would be 12 feet by 16 feet including the stairs at the rear which will be no wider than 4 feet. Mr. Dischley also confirmed that the deck would be meet the minimum side yard setback requirements; and
- (9) After board discussions with the Verona Township Zoning Officer Michael DeCarlo it was determined that the proposed deck should be considered 12 foot by 12 foot exclusive of the stairs and the stairs would not be calculated into the deck area.

AND WHEREAS, the Board having made the following legal and general conclusions:

- (1) The proposal to construct a new 12 foot by 12 foot deck which will be 6 feet in height above grade in the rear yard at the Property will be an appropriate improvement to the subject property;
- (2) The proposal to construct a new 12 foot by 12 foot deck which will be 6 feet in height above grade in the rear yard at the Property will advance the purposes of the Municipal Land Use Law in that it will enable the Applicant to enhance the use of the subject property and will improve the aesthetics of the same, thereby promoting the general welfare of the Township and its residents;
- (3) The benefits of allowing the applicant to construct a new 12 foot by 12 foot deck which will be 6 feet in height above grade in the rear yard at the Property outweigh any detriments;
- (4) The proposal to construct a new 12 foot by 12 foot deck which will be 6 feet in height above grade in the rear yard at the Property will be an

upgrade of the property that will not adversely affect the intent or purpose of the zone plan; and

- (5) The proposal to construct a new 12 foot by 12 foot deck which will be 6 feet in height above grade in the rear yard at the Property will not cause a substantial detriment to the public good.

NOW THEREFORE, be it unanimously resolved by the Board of Adjustment of the Township of Verona that the Applicant's proposal to construct a new 12 foot by 12 foot deck which will be 6 feet in height above grade in the rear yard at the Property and for the approval of bulk variances pursuant to N.J.S.A. 40:55D-70(c) from the maximum permitted deck height requirement where a maximum deck height of 4 feet is permitted pursuant to Verona Chapter 150-7.21.B and a deck height of 6 feet is proposed, from the minimum required rear yard setback to a deck where a minimum rear yard setback of 20 feet is required pursuant to Verona Chapter 150-7.21.D and a minimum rear yard setback of 16 feet to the deck is proposed, from the maximum permitted improved lot coverage requirement where a maximum improved lot coverage of 40% is permitted pursuant to Verona Chapter 150-17.5.D.4 and an improved lot coverage of 57.25% is proposed and from the minimum required rear yard setback requirement where a minimum rear yard setback of 30 feet is required pursuant to Verona Chapter 150-17.5.E.5 and a minimum rear yard setback of 16 feet is proposed with regard to the property located at 114 Franklin Street, Block 1504, Lot 128, based upon the testimony taken on March 11, 2021 and April 8, 2021, be granted, subject to the following conditions:

- (1) The Applicant shall be bound by the content of his testimony as if this testimony was incorporated herein;
- (2) All construction shall be completed in accordance with the plans submitted and/or the testimony of the Applicant;
- (3) The approvals granted herein shall expire unless construction is begun within two years of the date of the memorializing resolution; and
- (4) The east side of the deck must align with the house or be slightly to the west;
- (5) The maximum depth of the deck and stairs must not exceed 16 feet with a maximum depth of the deck being 12 feet and the maximum depth of the stairs being 4 feet; and
- (6) The west side of the deck must clear the basement egress.

IN THE MATTER OF THE APPLICATION OF
MICHAEL DISCHLEY
114 FRANKLIN STREET
BLOCK 1504 LOT 128

VOTE : TO GRANT

AYES

DANIEL MCGINLEY, CHAIRMAN
SCOTT WESTON, VICE CHAIRMAN
PAT LISKA
GENEVIEVE MURPHY-BRADACS
CHRISTY DIBARTOLO
LARRY LUNDY
PAUL MATHEWSON, ALT#2

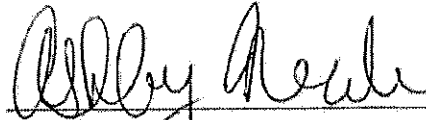
NAYS

ABSTENTIONS



Dan McGinley
CHAIRMAN

The foregoing is a true copy of a resolution adopted by the Board of Adjustment at their meeting on April 8, 2021 and memorialized on May 13, 2021.



Ashley Neale
Board of Adjustment Secretary