

RESOLUTION 2023 - 17

IN THE MATTER OF THE APPLICATION

OF

JULIE PARKER and MARKIAN SILECKY

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

WHEREAS, Julie Parker and Markian Silecky (the “Applicants”) are the owners of property located at 170 Grove Avenue, Verona, New Jersey, said property also being known as Block 1403, Lot 91 (the “Property”), which is located in an R-60 (Medium Density Single-Family) Residential Zone;

WHEREAS, the Applicants filed an application with the Verona Zoning Board of Adjustment (the “Board”) requesting the approval of a bulk variance pursuant to N.J.S.A. 40:55D-70(c) to construct an addition to a single family home and for a generator to be installed in the side yard at the Property;

WHEREAS, the Applicants requested bulk variances for a building height of 32.5 feet whereas 30 feet is the maximum allowed height for a single family home in the zoning district pursuant to Verona Chapter 150-17.3F(6) and for a proposed generator in the side yard pursuant to Verona Chapter 150-7.13B which does not permit mechanical equipment to be located within a required minimum side yard and for variances for expansion of the home pursuant to Sections 150-13.3A, 150-42A and 150-4.2 G related to non-conforming structures (which are bulk variances as per Engleside Condo v. Land Use Bd., 301 N.J. Super. 628 (Law Div. 1997).)

WHEREAS, the Board, after carefully considering the evidence presented by the Applicants Julie Parker and Markian Silecky, at a public hearing conducted on October 12, 2023, and giving due consideration to any questions and/or comments having been raised by residents who were properly notified (There being no persons presenting any questions or opposition present), and having made the following factual and general findings:

- (1) The subject property is located in an R-60 (Medium Density) Single Family Residential Zone;
- (2) The Applicant seeks to construct a renovation to the existing one family home with a proposed building height of 32.5 feet and to place a generator in the side yard of the property;
- (3) Applicants’ property has a pre-existing non-conformity in that there are three dwellings, identified as Units A, B and C and two detached garages identified as Units D and E (Applicant’s property is Unit B) in contravention of Chapter 150-13.3A which provides that no existing

{170 Grove Avenue, Verona Resolution}

building or premises containing any non-conforming use as permitted by this Article, shall be enlarged, extended, reconstructed or structurally altered unless such use is changed to a use permitted in the district in which such building or premises is located; and no non-conforming use shall be changed to another or different nonconforming use and Chapter 150-4.2 A of the Township of Verona Ordinances which states that no building or structure shall be erected and no existing building or structure shall be moved, altered, added to or enlarged, nor shall any land or building be designed, used or intended to be used for any purpose or in any manner other than as specified among the uses hereinafter listed as permitted in the district in which such building or land is located and Chapter 150-4.2 G of the Township of Verona Zoning Ordinances which provides that every residential building or residential structure hereafter erected or structurally altered shall be located on a lot, and in no event, except in the case of garden apartments, apartment buildings and planned developments, shall more than one principal building or structure and its accessory buildings be located on one lot.

- (4) Chapter 150-17.3 F (6) of the Township of Verona Zoning Ordinances provides that the maximum allowable height is 30 feet, (The proposed height is 32.5 feet);
- (5) Chapter 150-7.13B of the Township of Verona Zoning Ordinances states that no generator shall be permitted within a side yard;
- (6) Applicants Julie Parker and Markian Silecky were sworn and presented testimony in support of the application;
- (7) The Applicants testified that the total property is unique as it is 48,196 square feet with three single family homes and two detached garages that were built before the Code was enacted and are conforming residential uses within the zone.
- (8) The Applicants testified that the height proposed is necessary to match the existing first floor ceiling height of 9' and the roofline for the attic is at a slope that allows mechanical to be placed in the attic. A lower slope roof line would create greater maintenance issues for the roof, making it less resilient to storms and is an aesthetically pleasing design.
- (9) The placement of the generator is required as the pre-existing orientation of the home is that the "rear" of the house is what the Code classifies as a side yard due to the direction of the house placement on the lot. Additionally, placement of the generator in the "rear" yard would place the generator in the path of water drainage which potentially will damage the unit. The proposed placement of the generator will be the least disruptive

to the neighboring properties.

- (10) Expert Planner and Engineer, Michael Petry, testified on behalf of the Applicants that the property is located approximately 170 feet east of the intersection of Grove Avenue and Dot Terrace. Grove Avenue is a County road running east and west.
- (11) Mr. Petry noted that the property is in the R-60 zone which requires 7200 square feet of area for each lot and a 60 foot lot width.
- (12) Mr. Petry testified that the property is roughly a rectangle and has 100 feet of frontage along Grove Avenue and varies from 459 to 523 feet deed and has a total of 1.11 acres so that the subject property is more than six times the size of what is required in the zone in terms of lot area.
- (13) The property in question is unique as the lot contains three single family homes with one located in the front, a second in the center and a third in the rear of the property along with two detached garages – referred to as Units A, B and C as to the houses and Units D and E as the garages.
- (14) The Applicants request a variance for an expansion to the center house.
- (15) One driveway services all of the parking for the three houses.
- (16) The property slopes from the rear towards Grove Avenue and there is a high elevation in the rear above 370 and the front elevation is approximately 343 feet which is a fairly significant differential from back to front (approximately 7.2 feet).
- (17) The house in question sits in the center of the site and is well in excess of the required front, rear and side yard setbacks. (The front yard is 254.5 feet from Grove Avenue (30ft is required), rear yard is 163.9 feet (18 ft is required) and the side yard is 28.9 feet (8ft is required) and the combined side yard is 60.2 feet (18 feet is required).)
- (18) The Applicants seek to add to the rear of the middle unit to build a two story addition and a one story wrap around porch.
- (19) The proposed improvements will also reduce impervious coverage by eliminating several concrete pads, some walkways and some driveway and a shed but there will be a slight increase in impervious coverage due to the improvements. While the building coverage will increase from 8.9% to 12.3%, it is still under the maximum allowed of 25%.

- (20) The existing impervious coverage on site is 28.2% with a proposed increase to 28.9%. The ordinance allows up to 40% impervious coverage in this zone.
- (21) The proposed height of 32.5 ft is presented due to the topography of the property which creates a higher elevation and also due to the aesthetics of the proposed roof which is reflective of the area and the Craftsman style of the house. Additionally, there is only a small portion of the roof that actually exceeds the height requirement.
- (22) As to the location of the generator, Mr. Petry opined that the location immediately to the right of the house is appropriate because it is located 156 ft from the house that is closest to it and 90 ft behind the garage of the house that is next to the house in question.
- (23) Mr. Petry testified that the intent of the ordinance was that a generator should not be in a location where it would have a negative impact on a neighboring house and the placement of the generator here would accomplish that goal.
- (24) Additionally, as to the generator, Mr. Petry testified that if it was placed in the rear yard it would be too far from the house for it to function.
- (25) Mr. Petry testified that both the height variance and the generator placement variance could be granted under both c(1) and c(2) criteria.
- (26) With respect to c(1) as to the height, the topography of the property causes the height difference.
- (27) As to the generator, the layout of the house on the property would prevent the generator from functioning if placed in the rear.
- (28) As for justification under a c(2) variance, Mr. Petry opined that the variances were supported by the MLUL standards stated in paragraphs c. (Providing adequate light, air and open space), e. (relating to population densities by lot size) and g. (sufficient space in appropriate locations for a variety of uses.)
- (29) Mr. Petry further noted that the property is large enough to contain six (6) homes under the district standards and the proposed addition is well under the allowed density on the property.
- (30) There are no new uses being proposed, just an addition to a pre-existing structure.

- (31) Architect, Keith Gianakopoulos, testified as an expert on behalf of the Applicants and stated that the 32 ft. high gable roof is the top ridge on the main gable to the average grade. There is a 16ft high first gable, 25 ft for the second gable and 28 ft for the next gable, with the top being 30 ft from the side so that most of the roof gables are below the height limit.
- (32) The roof was designed so that the roofs would cascade down to bring the scale of the house down and give an appearance of a lower structure.

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

- (1) The proposal to renovate the existing home with a height of 32.5 feet is necessary as a c1 hardship due to the topography of the property and also under the c2 criteria of the MLUL;
- (2) It is the expansion of the structure, not the use, which necessitates the application for the variance in this case and therefore, the proposed renovation and addition are "c" or bulk variances (See: *Engleside Condo v. Land Use Bd.*, 301 N.J. Super. 628 (Law Div. 1997) and *Sherman v. Harvey Cedars Board of Adjustment*, 242 N.J. Super. 421, 577 A.2d 170 (App.Div. 1990).)
- (3) The proposed height of 32.5 feet is required as a hardship due to the pre-existing configuration of the house and the height of the first floor. If the applicant were to lower the height, the structure would require extensive renovation and the removal of the first floor as it presently exists. Additionally, the topography of the property creates the necessity for the roof height which is only a portion of the roof line as most of the roof is within the required height limitations.
- (4) The height of 32.5 feet proposed will advance the purposes of the Municipal Land Use Law in that it will enable the Applicants to enhance the use of the subject property, thereby promoting the general welfare of the Township and its residents, provides adequate light, air and open space and is appropriate in the space where it is located;
- (5) The placement of the generator in the side yard is necessary as a hardship due to the topography of the property and the unique nature of the very large setbacks both in the rear and sides of the house. Placement of the generator in the technical rear-yard would place it in the path of storm water drainage and would also prevent operation of the generator as it

would not be able to function if placed in the rear yard.

- (6) The placement of the generator is also approved under a c2 criteria as it will advance the purposes of the Municipal Land Use Law in that it will be the most efficient and least imposing on neighbors, thereby promoting the general welfare of the Township and its residents and will allow for sufficient open space.
- (7) The benefits of allowing the Applicants to construct the renovations of the house and placement of the generator in the side yard at the Property outweigh any detriments as both will be aesthetic and functional improvements to the existing house;
- (8) The proposal to renovate the house and add the generator at the Property will be an upgrade of the property that will not adversely affect the intent or purpose of the zone plan; and
- (9) The proposal to renovate the house to at the Property to have a height of 32.5 feet and a generator in the side yard will not cause a substantial detriment to the public good.

NOW THEREFORE, be it resolved by the Board of Adjustment of the Township of Verona that the Applicants' proposal to construct an addition creating a height of 32.5 feet and placement of a generator in the side yard of a pre-existing non-conforming lot, with regard to the property located at 170 Grove Avenue, Block 1403, Lot 91, based upon the testimony taken on October 12, 2023, be granted, subject to the following conditions:

- (1) The Applicant shall be bound by the content of their 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.

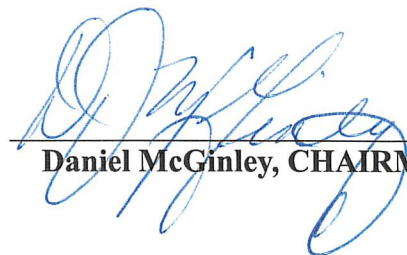
IN THE MATTER OF THE APPLICATION OF:

JULIE PARKER and MARKIAN SILECKY
170 GROVE AVENUE
BLOCK 1403 LOT 91

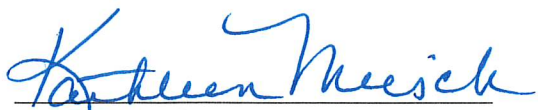
{170 Grove Avenue, Verona Resolution}

VOTE: TO GRANT

	AYES	NAYS	ABSTENTION	ABSENT
Chairperson Daniel McGinley	✓			
Vice Chairman Scott Weston	✓			
Lawrence Lundy			✓	
Christy DiBartolo	✓			
Paul Matthewson			✓	
Genevieve Murphy-Bradacs				✓
Patrick Liska			✓	
Kevin Ryan - Alternate #1	✓			
Louis Russo - Alternate #2			✓	✓


Daniel McGinley, CHAIRMAN

The foregoing is a true copy of a resolution adopted by the Board of Adjustment at their meeting on October 12, 2023 and memorialized on November 9, 2023.


Kathleen Miesch
Board of Adjustment Secretary