

RESOLUTION #2023-07

IN THE MATTER OF THE APPLICATION

OF

JOSEPH & ERIKA DAVILA

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

WHEREAS, Joseph & Erika Davila (collectively the “Applicant”) are the owners of property located at 32 Sunset Avenue, Verona, New Jersey, said property also being known as Block 203, Lot 31 (the “Property”), which is located in an R-70 (Low Density Single Family) Residential Zone;

WHEREAS, the Applicant filed an application with the Verona Zoning Board of Adjustment (the “Board”) requesting the approval of two variances pursuant to N.J.S.A. 40:55D-70(c) to construct a new in-ground pool and patio in the rear yard of the existing dwelling at the Property;

WHEREAS, the Applicant requested a variance for minimum required side yard setback where a minimum side yard setback of 8 feet is required maximum improved lot coverage where a maximum improved lot coverage of 35% is permitted pursuant to Verona Chapter 150-17.2.D.4 and an improved lot coverage of 41.60% is proposed; and

WHEREAS, the Board, after carefully considering the evidence presented by the Applicant at public hearings conducted on April 13, 2023 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 an R-70 (Low Density Single Family) Residential Zone;
- (2) The Applicant seeks to construct a new in-ground pool and patio in the rear yard of the existing dwelling at the Property prompting the need for variance relief;
- (3) Chapter 150-17.2.D.4 of the Township of Verona Zoning Ordinances requires a maximum improved lot coverage of 35% where an improved lot coverage of 41.6% is proposed requiring variance relief of 6.6%. Note the dwelling has an existing non-conforming improved lot coverage of 38.3%;
- (4) Jeff Egarian was sworn and accepted as an expert witness in the field of engineering and began to present testimony in support of the Applicant’s application;
- (5) Jeff Egarian explained that he was before the Board requesting variance relief due to an increase of 3.3% impervious coverage in order to construct

a 16 x 36 in-ground pool and paver patio in the Applicant's rear yard;

- (6) Jeff Egarian testified that storm water will be routed to a seepage tank in the back yard and according to percolation tests that were done on the property, they had a positive result of K4 and K5 which indicate excellent infiltration;
- (7) In response to a question from Peter Ten Kate, Verona Zoning Board Engineer, regarding whether the fence that was 6 inches off of the property line had been changed so that it would no longer require a variance, Mr. Egarian testified yes. Mr. Egarian further testified that the paver patio is included in the variance as impervious coverage; and
- (8) Mr. Egarian identified the variance relief requested in connection with the application and established the justifications for granting the variances requested which also include variances for 2 pre-existing conditions namely the location of the existing driveway 0 feet from the property line where a driveway can be no closer than 1 foot from any property line pursuant to Verona Chapter 150-12.3.D and for minimum required side yard setback where the existing dwelling is 6.6 feet from the property line where a minimum 8 foot side yard setback is required by Verona Chapter 150-17.2.E.2 in addition to the new variance for maximum permitted impervious coverage where an impervious coverage of 41.6% is proposed and a maximum 35% impervious coverage is permitted by Verona Chapter 150-17.2.D.4.

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

- (1) The proposal to construct a new in-ground pool and patio in the rear yard of the existing dwelling at the Property will be an appropriate improvement to the subject property;
- (2) The proposal to construct a new in-ground pool and patio in the rear yard of the existing dwelling 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 in-ground pool and patio in the rear yard of the existing dwelling at the Property outweigh any detriments;
- (4) The proposal to construct a new in-ground pool and patio in the rear yard of the existing dwelling 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 in-ground pool and patio in the rear yard

of the existing dwelling 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 in-ground pool and patio in the rear yard of the existing dwelling at the Property and for the approval of a variance pursuant to N.J.S.A. 40:55D-70(c) for maximum allowable improved lot coverage where a maximum improved lot coverage of 35% is permitted pursuant to Verona Chapter 150-17.2.D.4 and an improved lot coverage of 41.60% is proposed, for minimum required driveway setback to any property line where there is an existing driveway is 0 feet from a property line and a minimum 1 foot is required pursuant to Verona Chapter 150-12.3.D and for minimum required side yard setback where the existing dwelling is 6.6 feet from the property line where a minimum 8 foot side yard setback is required by Verona Chapter 150-17.2.E.2 with regard to the property located at 32 Sunset Avenue, Block 203, Lot 31, based upon the testimony taken on April 13, 2023, 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; and
- (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:

JOSEPH & ERIKA DAVILA
32 SUNSET AVENUE
BLOCK 203 LOT 31

VOTE : TO GRANT

AYES

NAYS

ABSTENTIONS

Chairman Dan McGinley
Vice Chairman Scott Weston
Mr. Larry Lundy
Mr. Pat Liska
Mr. Paul Mathewson
Mr. Kevin Ryan



Dan McGinley, CHAIRMAN

The foregoing is a true copy of a resolution adopted by the Board of Adjustment at their meeting on April 13, 2023 and memorialized on May 11, 2023.

Marcie Maccarelli

Marcie Maccarelli,
Acting Board of Adjustment Secretary