

RESOLUTION 2023 - 15

IN THE MATTER OF THE APPLICATION

OF

DIANNE FOY and FREDERICK FOY

BOARD OF ADJUSTMENT
TOWNSHIP OF VERONA
ESSEX COUNTY, NEW JERSEY

WHEREAS, Dianne Foy and Frederick Foy (the "Applicants") are the owners of property located at 48 Franklin Street, Verona, New Jersey, said property also being known as Block 1106, Lot 12 (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 390 sq. ft. patio at the Property;

WHEREAS, the Applicants requested a bulk variance for maximum aggregate area covered by accessory structures is required pursuant to Verona Chapter 150-17.3F(4) which allows maximum aggregate area covered by accessory structures in the yard at 15% (Already existing coverage is 20.2% and proposed is 29.3%); and

WHEREAS, the Board, after carefully considering the evidence presented by the Applicants Dianne Foy and Frederick Foy, at a public hearing conducted on September 14, 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 new 391 square foot patio in the rear of the property;
- (3) Chapter 150-17.3F(4) of the Township of Verona Zoning Ordinances provides that the maximum aggregate area covered by accessory structures in the yard they are located in is 15% and the site has an existing non-conforming rear yard coverage of approximately 20.2%, (The proposed patio exacerbates the coverage to approximately 29.3%);
- (4) Applicants Dianne Foy and Frederick Foy were sworn and presented testimony in support of the application;

- (5) The Applicants testified that in the summer of 2022, they were issued a permit to install a pool in their rear yard and in accordance with the permit the pool was erected.
- (6) The Applicants did not get to use the pool last summer and when they opened the pool to use it this year they quickly realized that a small patio around the pool was needed because the area was becoming too muddy.
- (7) The existing lot is 80' x 110.64' and the Board finds that the Applicants appropriately relied upon the permit issued by the Verona Building Department which created the pre-existing non-conforming lot coverage due to the pool.
- (8) The proposed patio will not create any water runoff onto neighboring properties and the neighbors do not have any opposition to the construction of the patio.

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

- (1) The proposal to add a 390 sq. ft. patio at the Property will be an appropriate improvement to the subject property;
- (2) The proposal to add a 390 sq. ft. patio at the Property 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;
- (3) The benefits of allowing the Applicants to construct a 390 sq. ft. patio at the Property outweigh any detriments;
- (4) The proposal to construct a 390 sq. ft. patio 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 install a 390 sq. ft. patio at the Property 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 a 390 sq. ft. patio, with regard to the property located at 48 Franklin Street, Block 1106, Lot 12, based upon the testimony taken on September 14, 2023, be granted, subject to the following conditions:

{00452282}

- (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 Board notes that the pool as installed is a pre-existing condition and Applicants appropriately relied upon the issuance of the Construction permit when they installed the pool.
- (4) 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:

DIANNE FOY and FREDERICK FOY
48 Franklin Street
BLOCK 1106 LOT 12

VOTE: TO GRANT

AYES Chairman McGinley, Mr. Ryan

NAYS

ABSTENTIONS: Mrs. DiBartolo; Vice Chair Weston

ABSENT: Mr. Russo, Mr. Mathewson, Mr. Liska, Mrs. Murphy-Bradacs

{00452282}

Dan McGinley, CHAIRMAN

The foregoing is a true copy of a resolution adopted by the Board of Adjustment at their meeting on September 14, 2023 and memorialized on October 12, 2023.


Kathleen Miesch

Kathleen Miesch
Board of Adjustment Secretary

{00452282}