

RESOLUTION 2023-02

IN THE MATTER OF THE APPLICATION

OF

JOSE MERCADO

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

WHEREAS, Jose Mercado (the "Applicant") is the owner of the property located at 48 Mount Prospect Avenue, Verona, New Jersey, said property also being known as Block 201, Lot 36 (the "Property"), which is located in an R-50B (Medium 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 a bulk variance pursuant to N.J.S.A. 40:55D-70(c) to construct a new 327 square foot frame deck in the rear yard at the Property;

WHEREAS, the Applicant requested a bulk variance for maximum permitted deck size in area where a deck may not exceed 20% of the building footprint pursuant to Verona Chapter 150-7.21.A and the proposed deck will be 34.6% of the building footprint; and

WHEREAS, the Board, after carefully considering the evidence presented by the Applicant at a public hearing conducted on March 9, 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-50B (Medium/High-Density Single-Family) Residential Zone;
- (2) The Applicant seeks to construct a new 327 square foot frame deck in the rear yard at the Property prompting the need for variance relief;
- (3) Chapter 150-7.21.A of the Township of Verona Zoning Ordinances permits a maximum deck size no greater than 20% of the building footprint in the R-50B Zone and the proposed deck will be 34.6% of the building footprint requiring variance relief of 14.6%;
- (4) Property Owner Jose Mercado was sworn and began to present testimony in support of the application;
- (5) Jose Mercado began his testimony by explaining that he was before the Board seeking a variance for exceeding the maximum permitted deck size requirement which is 20% of the building footprint in the R-50B Zone and explaining that the existing deck is greater than 20% of the square footage of the home because the home does not meet the minimum setback requirements for a nonconforming structure;

- (6) Jose Mercado then explained that he has not considered reducing the size of the deck to comply with the ordinance and indicates that he would like the deck to increase both the enjoyment and value of his home;
- (7) In response to a question from Board Member Kevin Ryan whether the deck had any drainage features, Jose Mercado further testified that the deck will be made of Trex and have grass below it. Jose Mercado testified that the yard slopes in the rear and as a result all the water flows to the back of the grass and his lot never floods; and
- (8) Jose Mercado testified that he sent out letters to his neighbors as required to see if anyone was opposed to the deck and did not hear from anyone. Jose Mercado states that his next-door neighbor and several other homes on his street have a deck. He indicates that his deck will be low while theirs are high which will ensure privacy to everyone.

WHEREAS, the following exhibit was introduced into evidence:

Exhibit A-1 (3-9-23), Photographs that Jose Mercado submitted with the original application materials to the Board are entered as an exhibit, marked A-1.

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

- (1) The proposal to construct a new 327 square foot frame deck in the rear yard at the Property will be an appropriate improvement to the subject property;
- (2) The proposal to construct a new 327 square foot frame deck 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 327 square foot frame deck in the rear yard at the Property outweigh any detriments;
- (4) The proposal to construct a new 327 square foot frame deck 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 327 square foot frame deck in the rear yard 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 Applicant's proposal to construct a new 327 square foot frame deck in the rear yard at the Property and for the approval of a bulk variance pursuant to N.J.S.A. 40:55D-70(c)

for maximum permitted deck size in area where a deck may not exceed 20% of the building footprint pursuant to Verona Chapter 150-7.21.A and the proposed deck will be 34.6% of the building footprint with regard to the property located at 48 Mount Prospect Avenue, Block 201, Lot 36, based upon the testimony taken on March 9, 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;
- (3) The Applicant must comply with the condition that he is required to use native plants and landscaping around the base of the deck; and
- (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:

JOSE MERCADO
48 MOUNT PROSPECT AVENUE
BLOCK 201 LOT 36

VOTE : TO GRANT

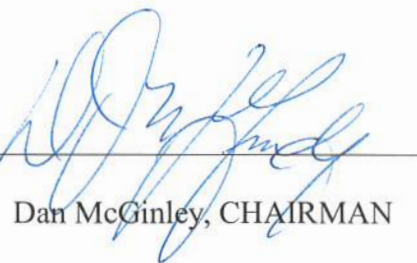
AYES

Vice Chairman Scott Weston
Ms. Genevieve Murphy-Bradacs
Mr. Kevin Ryan
Mr. Paul Mathewson

NAYS

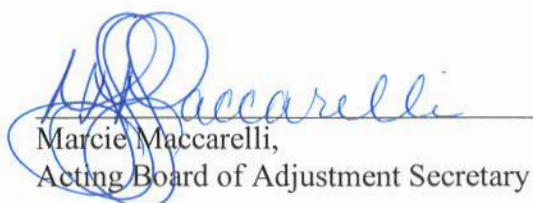
Chairman Dan McGinley
Ms. Christy DiBartolo

ABSTENTIONS



Dan McGinley, CHAIRMAN

The foregoing is a true copy of a resolution adopted by the Board of Adjustment at their meeting on March 9, 2023 and memorialized on April 13, 2023.



Marcie Maccarelli,
Acting Board of Adjustment Secretary