

**IN THE MATTER OF THE
APPLICATION
OF
NICHOLAS TIMPANARO**

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

WHEREAS, Nicholas Timpanaro (the "Applicant") is the owner of property located at 87-89 Fairview Avenue, Verona, New Jersey, said property also being known as Block 1502, Lot 50 (the "Property"), which is located in an R-60 (Medium 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 d(2) variance to increase a non-conforming use pursuant to N.J.S.A. 40:55D-70(d), and four bulk variances pursuant to N.J.S.A. 40:55D-70(c) to construct two garages, one in each side yard at the Property that has a two-family house which is a pre-existing non-conforming use in the zone;

WHEREAS, the Applicant requested bulk variances for: 1) minimum required side yard setback where a minimum side yard setback of 8 feet is required pursuant to Verona Chapter 150-17.5F.(1) and a setback of 6.6 feet is proposed for the north garage and 3 feet is proposed for the south garage at the Property, 2) minimum building separation distance between the garage as an accessory structure and the home as the principal structure required is 10 feet pursuant to Verona Chapter 150-17.3F(3) with a proposed separation distance for the north garage as 5 feet and for the south garage a separation distance of 8.1 feet is proposed, 3) maximum aggregate area covered by accessory structures in the side yard is 15% pursuant to Verona Chapter 150-17.3F(4) with a proposed side yard coverage for the north garage of approximately 19.6% and the south garage with a proposed side yard coverage of approximately 20%, 4) maximum permitted garage height pursuant to Verona Chapter 150-17.3F(5) is 15 feet with both garages proposed heights of 17 feet; and

WHEREAS, the Board, after carefully considering the evidence presented by the Applicant at a public hearing conducted on February 8, 2024 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 two single car garages, 16' x 20' each and 17 feet high in each of the two side yards (north and south) of the property;
- (3) The site is currently developed with a multi-family dwelling which is not permitted in the R-60 Zone as per Section 150-17.3 of the Township Verona Zoning Ordinances and the proposed garages are considered as an expansion of the existing non-conforming use prompting the need for a d

(2) use variance;

- (4) Verona Chapter 150-17.5F. (1) of the Township of Verona Zoning Ordinance requires a minimum side yard setback of 8 feet and a setback of 6.6 feet is proposed for the north garage and 3 feet is proposed for the south garage at the Property;
- (5) Verona Chapter 150-17.3F (3) requires a minimum building separation distance between the garage as an accessory structure and the home as the principal structure of 10 feet with a proposed separation distance for the north garage as 5 feet and for the south garage a separation distance of 8.1 feet is proposed;
- (6) Verona Chapter 150-17.3F (4) limits a maximum aggregate area covered by accessory structures in the side yard to 15% with a proposed side yard coverage for the north garage of approximately 19.6% and the south garage with a proposed side yard coverage of approximately 20%;
- (7) Verona Chapter 150-17.3F (5) limits a maximum permitted garage height to 15 feet with both garages proposed heights of 17 feet;
- (8) Applicant Nicholas Timpanaro was sworn and began to present testimony in support of the application;
- (9) Applicant testified that he wanted to add a garage on each side of the house because he and his wife go to Florida for the winter, and he would like to park his wife's car in the garage and have the garage big enough for him to use for workspace;
- (10) Mr. Timpanaro also testified that the reason he was seeking two garages was for symmetry as the house has two living units side by side with each side of the main structure having a mirror image of the other;
- (11) The height of the proposed garages was due to the desire to match the Victorian house design;
- (12) Mr. Timpanaro stated that he did not need two garages, that the proposed second garage was just for symmetry;
- (13) Mr. Timpanaro was asked if he considered moving the garages more to the rear of the property; however, he did not want to move the garages back because he has a shed in the rear for storage and wanted an open yard to enjoy;
- (14) The Applicant was not seeking to heat the garage, just to install electricity for lighting and for the garage door opener;
- (15) The Applicant testified that currently there are four vehicles parked on the 89 Fairview side and three vehicles on the 87 Fairview side and the driveways are wide enough to park two cars side by side;
- (16) The Applicant did not present any expert testimony from either an architect or planner and while the Board reviewed the purposes set forth in the MLUL as possible justification for the variances, there was no specific testimony offered by the Applicant that the Board found specific to the proposed project;
- (17) Board member Murphy-Bradacs indicated her concern that the house, though a two-family, appears to be a permitted single-family home and

that the addition of two garages will exacerbate the non-conforming feature of it being a two-family home;

- (18) Ms. Murphy-Bradacs also indicated that one garage would be in keeping with a single-family house and would fit into the neighborhood and look nice;
- (19) The Board took note of the other properties adjacent to the Applicant's property and that the lot immediately adjacent to it on either side were undersized which further exacerbated the disproportion of the proposed structures on Applicant's property as two garages added on the sides of an existing very large home with short side yards limited light, air and open space;
- (20) Chairman McGinley indicated that no one specific variance that the Applicant was seeking was problematic; however, all five of the variances together was too much on the property.

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

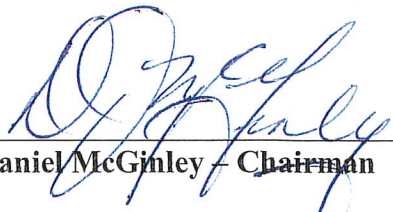
- (1) The Applicant's proposed development of the Property would violate the Verona Zoning Ordinance;
- (2) The Applicant has failed to meet his burden of demonstrating that a legal basis exists for the granting of the requested variance;
- (3) The proposed two garages on each side of the house at the Property is not an appropriate improvement of the subject property;
- (4) The Applicant failed to satisfy the positive criteria for granting the d (2) variance relief. Specifically, Applicant failed to provide evidence that the proposed expansion of the non-conforming use was necessary due to an undue hardship or that it advanced the purposes of the Municipal Land Use Law as codified in N.J.S.A. 40:55D-2 or that it met the positive and negative criteria test;
- (5) Specifically, the Applicant failed to demonstrate that two garages advanced the purposes of the Municipal Land Use Law or that the site could accommodate the problems associated with expanding the two-family house with two garages in a one-family zone;
- (6) The Applicant failed to satisfy the positive criteria for granting the requested bulk variances. Specifically, the Board found that no unique conditions of the site were present and the proposed two garages at the Property does not advance the purposes of the Municipal Land Use Law as codified in N.J.S.A. 40:55D-2;
- (7) The Applicant failed to satisfy the negative criteria for granting the requested bulk variance. Specifically, the Board found that the proposed two garages extended from property line to property line and were too much for the existing property which already had an exceptionally large house situated next to an undersized lot; and
- (8) Moreover, the Board found that the proposed two garages at the Property will cause a substantial detriment to the public good of the neighboring property owners.

NOW THEREFORE, be it resolved by the Board of Adjustment of the Township of Verona that the Applicant's proposal to construct two garages, one on each side of the existing non-conforming two-family house at the Property being a use variance for an expansion of an existing non-conforming use pursuant to N.J.S.A. 40:55D-70(d)(2) and four bulk variances pursuant to N.J.S.A. 40:55D-70(c) for: minimum side yard setback of 8 feet is required pursuant to Verona Chapter 150-17.5F.(1) where a setback of 6.6 feet is proposed for the north garage and 3 feet is proposed for the south garage at the Property, minimum building separation distance between the garage as an accessory structure and the home as the principal structure required is 10 feet pursuant to Verona Chapter 150-17.3F(3) with a proposed separation distance for the north garage as 5 feet and for the south garage a separation distance of 8.1 feet is proposed, maximum aggregate area covered by accessory structures in the side yard is 15% pursuant to Verona Chapter 150-17.3F(4) with a proposed side yard coverage for the north garage of approximately 19.6% and the south garage with a proposed side yard coverage of approximately 20%, and maximum permitted garage height pursuant to Verona Chapter 150-17.3F(5) is 15 feet with both garages proposed heights of 17 feet with regard to the property located at 87-89 Fairview Avenue, Block 1502, Lot 50, based upon the testimony taken on February 8, 2024, be denied.

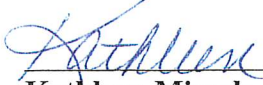
IN THE MATTER OF:

Nicholas Timpanaro
87-89 Fairview Avenue
Block 1502, Lot 50

	AYES	NAYS	ABSTENTION	ABSENT
Mr. Ryan (Alt #1)	✓			
Mrs. Murphy-Bradacs	✓			
Mr. Matthewson	✓			
Ms. DiBartolo				✓
Vice Chair Weston		✓		
Chair McGinley		✓		


Daniel McGinley - Chairman

The foregoing is a true copy of a resolution adopted by the Verona Township Board of Adjustment at their meeting of February 8, 2024, memorialized on March 14, 2024.


Kathleen Miesch - Board of Adjustment Secretary
87-89 Fairview Ave- Timpanaro