

**RESOLUTION
ZONING BOARD OF ADJUSTMENT
BOROUGH OF ESSEX FELLS**

In the Matter of:

Michael and Lisa Curi
Block 6.03, Lot 9, 9 Oldchester Road, Essex Fells
Block 61.01, Lot 3, Caldwell

WHEREAS, Michael and Lisa Curi, as owners, made application to the Zoning Board of Adjustment of the Borough of Essex Fells to raze the existing single family residence and construct a new single family residence on property known and designated as Lot 9 in Block 6.03 on the municipal tax map of the Borough of Essex Fells known as 9 Oldchester Road and Lot 3 in Block 61.01 on the municipal tax map of the Borough of Caldwell; and

WHEREAS, the applicants requested a variance pursuant to N.J.S.A. 40:55D-70d(4) to permit a floor area ratio of 19.37 percent where a maximum of 17 percent is allowed pursuant to Section 170-119/Schedule of Zoning District Area, Yard and Building Requirements of the Land Development Ordinance of the Borough of Essex Fells (the "Ordinance"); and

WHEREAS, the applicants submitted a topographic survey consisting of one sheet dated July 26, 2012 prepared by Lan Associates, floor plans and elevations, Sheets A1.0, A1.1, A1.2, A1.3, A2.0 and A2.1 dated April 17, 2014 prepared by Eric Baker Architecture, as well as a site plan, Sheets C1 through C6 dated March 28, 2013 revised through April 9, 2014 prepared by Stonefield Engineering & Design, LLC; and

WHEREAS, this matter was considered by the Board at a public hearing held on December 18, 2014 at which time it was established that notice was properly published and that property owners within 200 feet of the subject property had been properly served with notice; and

WHEREAS, the Board makes the following findings and conclusions:

1. The subject property contains an aggregate lot area of 34,380 square feet and is bisected approximately in half by the municipal boundary line between the Boroughs of Essex Fells and Caldwell. The property is a corner lot with frontage on Oldchester Road and Hawthorne Road. The Essex Fells portion of the property is located in the A-4 zone district. The property is improved with a single family home which has fallen into disrepair and has been vacant for over 10 years.

2. The applicants propose to raze the existing dwelling and construct a new French Provincial style two story single family home consisting of 8,203 square feet above grade, which became 6,660 square feet as calculated using the Floor to Area Ratio ("FAR") definitions in the Ordinance. The home will have stone on the bottom, stucco façade, wood roof shingles, hardwood, stone and copper accents. The concrete paver patio would be constructed with pervious stone and the property will be professionally landscaped. The main entrance will face Oldchester Road and the attached garage will face Hawthorne Road. The proposal contains a U-shaped driveway off Oldchester Road with an extension and back-up area to the garage. The existing driveway access to Hawthorne Road will be eliminated. The preexisting nonconforming southerly side yard setback of 11.5 feet will be increased to 22.5 feet and conform with the ordinance. The proposed front and rear yard setbacks of 96.6 feet and 98.5 feet, respectively, substantially exceed the minimum ordinance requirements.

3. The applicants' plan provides for impervious coverage of 25 percent on the portion of the property located in Essex Fells which meets the ordinance requirement. The applicants propose drainage improvements including subsurface piping and two dry wells which will result in a reduction in run-off rates and volume.

4. At the public hearing, the applicants testified that the floor-to-next-above floor height shall not exceed 9.5 feet and therefore will qualify as a "cellar" and not a "story" in

accordance with the ordinance. Exhibit A-2 consisting of Sheet A2.1 prepared by Eric Baker Architecture dated December 3, 2014 was submitted to prove compliance with the ordinance.

5. Based upon the testimony presented and the exhibits submitted, the Board was satisfied that approval of the application advances the purposes of the Municipal Land Use Law contained in N.J.S.A. 40:55D-1 et seq., specifically encouraging appropriate use of land which promotes the general welfare (-2a); provides adequate light, air and open space (-2c); ensures the development of individual municipalities does not conflict with the development and general welfare of neighboring municipalities (-2d); promotes the establishment of appropriate population densities that will contribute to the well-being of persons, neighborhoods and communities (-2e); provides sufficient space in an appropriate location for residential use (-2g) and promotes a desirable visual environment (-2i).

6. The proposed two story home has been designed to minimize its mass. The area between the curb line and right-of-way of Hawthorne Road consists of approximately 1,880 square feet and visually seems part of the property which further reduces the visual impact of the home. The Board determined that the subject property accommodates problems typically associated with a larger floor area than permitted by ordinance consistent with *Randolph Town Center v. Randolph* 324 N.J. Super. 412 (App. Div. 1999). Based upon the foregoing, the Board determined the requested increase in the floor area ratio deviation will not have a substantial adverse impact on area properties and thus, will not cause substantial detriment to the public good.

7. Although the applicants' proposal exceeds the maximum floor area ratio permitted by ordinance, based on the foregoing, the proposal is not inconsistent with the intent and purpose of the Zone Plan and Zoning Ordinance which seeks to reasonably control the size and mass of structures in relation to lot size and prevent overbuilding.

WHEREAS, the Board, based on the foregoing findings, concluded that the applicants proved the requisite special reasons for the granting of the floor area ratio variance and proved by a preponderance of the evidence that the proposed relief could be granted without substantial detriment to the public good and would not substantially impair the intent and purpose of the Zone Plan and Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED that this resolution shall serve to memorialize the decision of the Essex Fells Zoning Board of Adjustment in granting the floor area ratio variance, as hereinabove described, subject to the following conditions:

1. The floor-to-next-above floor height of the basement level shall not exceed 9.5 feet.
2. The applicants shall be bound by all representations made in testimony and exhibits presented to the Board.
3. The applicants shall be responsible for payment of all escrow charges incurred in connection with review of this matter.

Those qualified to vote: Albulescu, MacEvoy, Bate, Nolan, Keane, Morozov, O'Neill

Motion by: Keane

Seconded by: O'Neill

Affirmative Votes: Albulescu, MacEvoy, Bate, Nolan, Keane, Morozov, O'Neill

Negative Votes: 0

Abstentions: 0

Approved by:

Gerald Nolan
GERALD NOLAN, Chairman

Dated:

I hereby certify that this is a true copy of a resolution adopted by the Board of Adjustment of the Borough of Essex Fells on January 22, 2010.

Susan Keane
SUSANNE KEANE, Secretary