

**BOARD OF ADJUSTMENT
BOROUGH OF ESSEX FELLS**

MINUTES OF THE MEETING OF JUNE 24, 2021

The meeting was conducted via Zoom and was called to order at 7:31 p.m. The Open Public Meetings Act announcement was read as required by law. Those present were: Chairman Michael Candido, Vice-Chairman Michael Spellman, Henry Albuлесcu, Oscar Bate, Bernard D'Avella, Secretary Thomas O'Beirne, Chris Shearin and MJ Jolda. In addition, Michael D. Sullivan, Board Attorney, was present.

On motion made by Vice-Chairman Spellman, seconded by Board Member D'Avella, the minutes of the meeting of May 27, 2021 were adopted unanimously by all those eligible to vote.

The next matter to come before the Board was the continued hearing of the application of Anthony & Natalia Luberto, 60 Fellswood Drive, Block 1.01, Lot 13.05 for a side yard setback variance. The matter was previously heard at the Board's February 25, 2021 meeting. Anthony Luberto, 60 Fellswood Drive, Essex Fells, New Jersey noted the plan has been revised to reflect a side yard setback of 10 feet 3 inches where previously 3 feet 10 inches was proposed in connection with a one-story carport. The structure is completely open and will have two columns and is architecturally attractive. The purpose of the carport is to provide protection from the elements.

Joseph Haines, Architect, 74 East Passaic Avenue, Nutley, New Jersey noted the existing retaining wall will be investigated for structural integrity. The setback of the carport varies from 10 feet 3 inches to 14 feet 5 inches where 22 feet is required. In response to a question from a Board Member, he noted the property is narrower in the front than the rear. Mr. Haines noted there is not enough room to plant a buffer and allow parking for a second car. The previous carport was 564 square feet and the current carport as proposed is 380 square feet. Mr. Luberto noted he and his wife both drive SUVs and both cannot fit into the existing garage. In response to a question from the Board Attorney, the applicant stipulated it would comply with comments 4.1, 4.2, 4.4, 5.1, 6.1 through 6.4 contained in the review memorandum prepared by Petry Engineering, LLC dated June 9, 2021.

The matter was opened to the public and no one wished to be heard.

Board Member D'Avella stated that he had visited the home which is attractive and the carport would be a nice addition. The neighbor's property is sunken compared to the subject property and he appreciated the change to the plan. Secretary O'Beirne noted the dwelling to the left is very close but well shrouded with trees and vegetation and the carport would be an attractive addition. Vice-Chairman Spellman stated he was in full support and stated the function and use of the property would not change. Board Member Shearin noted he had some difficulty with the application as the proposed side yard is only one half of the requirement. Board Member Bate stated that even though the side yard has been improved it's still an inappropriate intrusion into the side yard setback. Board Member Jolda said she appreciated the increase in the side yard setback and wouldn't oppose the application. Board Member Albuлесcu noted the applicants made a good faith effort to improve the side yard setback and the structure is open on all sides.

On motion made by Vice-Chairman Spellman, seconded by Board Member D'Avella to grant a variance to permit a side yard setback of 10 feet 3 inches subject to compliance with comments 4.1, 4.2, 4.4, 5.1, 6.1 through 6.4 contained in the review memorandum dated June 9, 2021 prepared by Petry Engineering, LLC was approved by a vote of 4 – 3 (Vice-Chairman Spellman and Board Members D'Avella, Jolda and Albuлесcu voting in the affirmative and Chairman Candido and Board Members Bate and Shearin voting in the negative).

The next matter to come before the Board was the continued hearing of the application of Anthony and Jenna Forte, 33 Holton Lane, Block 3.02, Lot 10 for variances relating to floor area ratio, maximum number of stories, impervious coverage and generator output/pad size. The matter was previously heard at the Board's May 27, 2021 meeting. Elizabeth Durkin, Esq. was present on behalf of the applicants. Ms. Durkin called Michael Roth of Roth Engineering, 52 Quail Run, Long Valley, New Jersey a professional engineer of the State of New Jersey. Mr. Roth prepared a Principal Building Coverage Analysis of Holton Lane dated June 14, 2021 based upon a 2021 aerial map which was marked as Exhibit A-2. The purpose of the exhibit is to compare the footprint of the subject property with other dwellings on Holton Lane. The subject property has a building footprint of 3,698 square feet based on the revised plan which is 235 square feet less than the original submission. The average principal building coverage of the other properties on Holton Lane average 3,978 square feet. Mr. Roth noted the dwelling is not overbuilt and fits in with the character of the other homes. He identified homes which were above the average as 13, 27, 39, 57, 6, 20, 28, 46, 58 and 66 Holton Lane. The adjacent property at 39 Holton Lane is over 600 square feet above the average for principal building coverage. Mr. Roth noted the existing left side yard setback is nonconforming and the new home will conform to the setback requirement. Impervious lot coverage is currently 28.5% where 25% is allowed and 29.7% is now proposed. To mitigate the increase in stormwater, a drywell to infiltrate roof runoff is proposed which will improve existing conditions. The applicants will mark exhibits reducing the size of the home and eliminating the pool house. The applicants stipulated that if the application is approved the revised plans would be submitted to the Board's engineer and the applicant would comply with any comments. Mr. Roth noted that Exhibit A-2 is based upon footprints not FAR. There are 28 homes on Holton Lane with an average footprint of 3,978 square feet. 39 Holton Lane has a building footprint of approximately 4,600 square feet. 13 Holton Lane has a building footprint of approximately 9,000 square feet. The subject property has an existing building footprint of approximately 2,400 square feet and the proposed building footprint is 3,698 square feet based upon the revised plan.

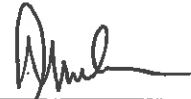
Greg Kotchick, Esq. of Durkin & Durkin appeared on behalf of Adam and Michele Blackwood, 39 Holton Lane, Essex Fells, New Jersey and questioned Mr. Roth. Mr. Roth acknowledged there was nothing stopping the applicants from complying with the zoning ordinance. Mr. Roth noted that in his study area most of the homes have two stories and approximately 25% are one story. Sandy Franks, 21 Holton Lane, Essex Fells, New Jersey wondered whether the principal building coverage average would be thrown off if the high and low numbers were thrown out. Jennifer Meglio, 133 Devon Road, Essex Fells, New Jersey asked questions about drainage and Mr. Roth noted that all roof runoff will be collected in a stormwater system actually improving the situation.

home but noted the FAR is tough and would vote no. Board Member Albulescu said he was familiar with the street and most of the homes are not 2 ½ stories. Since this was new construction, a landscape plan would have been helpful. Chairman Candido said he was very concerned with the requested floor area ratio which is 50% over the maximum allowed and he cannot support the application especially since this is new construction. He noted the Panullo application actually resulted in a reduction of 1% in floor area ratio.

Ms. Durkin requested the application be carried so that the applicants may revise plans. Board Attorney Sullivan stated that since the case has closed, it is at the Board's discretion. On motion made by Board Member Shearin, seconded by Board Member D'Avella, the matter was carried to the August 21, 2021 meeting at 7:30 p.m. with revised plans submitted at least two weeks in advance which carried by a vote of 5 – 2 (Vice-Chairman Spellman, Board Members D'Avella, Albulescu, Shearin and Bate voting in the affirmative and Chairman Candido and Secretary O'Beirne voting in the negative).

Chairman Candido asked Board Members of their availability at the July and August meetings. All members were available except Ms. Jolda indicated she was unsure about the August meeting.

There being no further business to come before the Board, on a motion made by Vice-Chairman Spellman, seconded by Board Member D'Avella, the meeting was duly adjourned by unanimous vote at 10:14 p.m.



A. Michael Candido, Chairman
Zoning Board of Adjustment
July 22, 2021