

**BOARD OF ADJUSTMENT
BOROUGH OF ESSEX FELLS
MINUTES OF THE MEETING OF NOVEMBER 15, 2021**

The meeting was conducted via Zoom and was called to order at 7:37 p.m. The Open Public Meetings Act announcement was read as required by law. Those present were: Chairman Michael Candido, Vice-Chairman Michael Spellman, Secretary Thomas O'Beirne, Henry Albulescu (7:43 p.m.), Oscar Bate (7:48 p.m.), Bernard D'Avella, Annmarie Scolnick, Chris Shearin (7:48 p.m.) and MJ Jolda. In addition, Michael D. Sullivan, Board Attorney, was present.

On motion made by Board Member D'Avella, seconded by Vice-Chairman Spellman, the minutes of the meeting of October 28, 2021 were adopted unanimously by all those eligible to vote.

On motion made by Chairman Candido, seconded by Secretary O'Beirne, the resolution of Anthony and Jenna Forte, 33 Holton Lane, Block 3.02, Lot 10 denying floor area ratio, impervious coverage, building height (stories) and generator output / pad size variances was approved by a vote of 2 – 0 (Chairman Candido and Secretary O'Beirne voting in the affirmative).

The next matter to come before the Board was the application of Barry and Brittany Maurillo, 47 Oak Lane, Block 11, Lot 6 seeking a variance for driveway width. Barry Maurillo, 27 Oak Lane, Essex Fells, New Jersey was present. Mr. Maurillo stated the existing driveway is 8 feet wide and can only accommodate parking two cars. The home has an attached garage, however, the two SUVs they own cannot fit into the garage. He has two young children and wants to stay in the home for a long time. The proposal is to expand the driveway up to 20 feet wide which will be asphalt with curbs. The existing driveway will remain and the driveway will be widened. The existing utility pole which is depicted on a hand drawn sketch of the driveway improvements will remain. The sketch was amended to correct the location of the utility pole which was marked as Exhibit A-1. Approval of the application will allow parking of one additional vehicle. The existing garage could accommodate one small car. If the driveway was widened to 14 feet, he said he would not be able to park two cars next to each other.

In response to a Board Member's question, Mr. Maurillo indicated the adjacent property to the west has a driveway which generally abuts the property line and encroaches onto his property. The new driveway would be approximately 4 feet from the adjacent property. The new home constructed on the corner of Oak Lane and Roseland Avenue was discussed along with its driveway configuration. Alternative driveway configurations were also discussed.

The matter was opened to the public for questions. Elizabeth DeMeo, 45 Oak Lane, Essex Fells, New Jersey asked questions regarding drainage. Board Attorney Sullivan advised the Board's Engineer, Petry Engineering, in an October 1, 2021 review memo noted that a grading plan would have to be submitted and stormwater runoff would have to be addressed. Sarah Close, 76 Wootton Road, Essex Fells, New Jersey stated she did not receive notice of the hearing. Board Attorney Sullivan stated that the applicants provided a certified mail receipt showing notice was

mailed. Ms. Close asked questions regarding the entrance width of the driveway between the edge of pavement and the applicants' property line. Al DeMeo, 45 Oak Lane, Essex Fells, New Jersey, asked questions regarding the height of the SUVs owned by the Maurillos and based upon the topography noted safety concerns.

The matter was opened to the public for comments. Mary Miczak, 238 Devon Road, Essex Fells, New Jersey indicated she had lived at 49 Oak Lane for over ten years and her parents live at 41 Oak Lane. She suggested that the applicants could park elsewhere when they have overnight guests. She questioned whether the Maurillos will in fact be in the house many years from now. She said she was opposed to approval of the application because it would make the property look like a parking lot and unsightly. Sarah Close stated the look of the town is single width driveways and approval of this application would not be appropriate. Elizabeth DeMeo stated multiple vehicles in the front of the house could impact resale value of her home and curb appeal. Mary Miczak indicated her parents were also opposed to the application.

The matter was closed to the public. Chairman Candido said he was opposed to the application stating it was a lot of black top in front of the home taking up almost the entire left side of the property. The large exposure of black top and higher elevation was problematic. Secretary O'Beirne noted there were some common driveways in the borough which contains similar widths. He was opposed to the application because a 20-foot wide driveway is too much for a 30-foot wide home. Vice-Chairman Spellman noted this section of Oak Lane is picturesque and adding this amount of asphalt doesn't fit the neighborhood. Board Member D'Avella said he was sympathetic but noted the driveway would be unsightly. Board Member Bate noted as proposed, he was not in favor of the application. Board Member Albuлесcu noted the applicants may not stay in the home and this approval would be permanent. He thought the plans were messy and questioned whether there were other alternatives. Board Member Shearin stated his objection to the application. Board Member Jolda said she was sympathetic with the applicants but this would be unsightly for this part of town. Board Member Scolnick agreed with other Board Members and noted she was sympathetic, however, she shared concerns about the appropriateness of this application in the neighborhood and the permanency of the driveway.

On motion made by Board Member D'Avella, seconded by Board Member Albuлесcu to deny the driveway width variance passed by a vote of 7 - 0 (Chairman Candido, Vice-Chairman Spellman, Secretary O'Beirne, Board Members Albuлесcu, Bate, D'Avella and Scolnick voting in the affirmative).

The next matter to come before the Board was the application of Jonathan and Barbara Luca, 6 Welsh Road, Block 12.02, Lot 5 for floor area ratio, impervious coverage and side yard setback variances. Jonathan Luca, 6 Welsh Road, Essex Fells, New Jersey was present. He purchased the home in 2017, he has two boys seven and nine years old and commenced interior renovations to the home as well as minor exterior improvements. The application seeks approval to construct a covered open terrace with new patio.

John Lyons, 27 Dehart Street, Morristown, New Jersey a registered architect of the State of New Jersey, was accepted as an expert by the Board. Mr. Lyons noted the property is a corner lot with frontage on Welsh Road and Rensselaer Road. The home on the property is L shaped. The property is undersized with lot area of 37,761 square feet where a minimum of 43,560 square

feet is required. The applicants are seeking a side yard setback variance to permit 20.6 feet where 40.5 feet is existing and 45 feet is required. The applicants are also seeking a floor area ratio variance to permit 17.76% where 16.89% is existing and a maximum of 11% is allowed. The applicants are also seeking a variance to permit impervious coverage of 28.37% where 25.87% is existing and a maximum of 25% is allowed. The application seeks approval of a 17.8 feet by 18 foot covered terrace. Mr. Lyons referred to the architectural plans prepared by his office consisting of five sheets dated September 13, 2017 and revised through April 9, 2021. The proposed terrace would match the architectural style of the home and would be an open structure. The fact that the property has two front yards limits where an addition could be placed. The terrace would have a copper roof. The existing home has a red clay tile roof which could not be easily matched so a copper roof was chosen as it is complimentary. The copper roof would turn brown in about six months. The terrace is open with columns and no walls or windows. Board Attorney Sullivan noted that in the event of an approval a condition could be imposed prohibiting the terrace from being enclosed.

The matter was opened to the public. Stephen Sudovar, 193 Rensselaer Road, Essex Fells, New Jersey stated he owns the adjacent property to the west and noted the properties in the area have drainage issues. He indicated he had plans to build a home on the property and was opposed to this application which would only provide a 20.6 foot side yard setback where a minimum of 45 feet is required. His plans include a pool on his property in the area of the proposed addition and he had severe problems with this. He was opposed to more impervious coverage and violation of the required setback.

The matter was closed to the public. Board Chairman Candido noted the property was slightly undersized and contained a 16.89% nonconforming floor area ratio. He expressed concern regarding the side yard setback. He noted the house was beautiful but this constitutes overbuilding and the side yard setback encroachment is egregious. Secretary O'Beirne stated he was opposed to the application expressing concerns regarding the side yard setback and floor area ratio. Vice-Chairman Spellman noted the lot is undersized and this constitutes a minimal addition which would not be a looming structure. This would match the architecture of the existing home and the property contains landscape screening. Board Member D'Avella said it was a beautiful house, but had some concern regarding the floor area ratio and side yard setbacks. Board Member Scolnick noted this was an undersized lot and the side yard setback is a stretch. The vacant lot next door could be screened and an addition likely would not be seen from the street. Board Member Bate said he was bothered by the floor area ratio and the house was beautifully cared for and warranted special consideration. He also noted the terrace will not be enclosed. Board Member Albuлесcu said he was in favor of the application but had some concerns regarding runoff. Board Member Shearin said the proposal is tastefully done but he could not approve the side yard setback variance which would be inappropriate in the neighborhood. Board Member Jolda complimented the design but was opposed to the floor area ratio and side yard setback variances.

Board Attorney Sullivan suggested that if there is a motion to approve it should be subject to compliance with comments 3.1, 3.5 through 3.9, 4.1 through 4.4 of the Petry Engineering review memorandum dated October 29, 2021 and the open covered terrace shall not be enclosed. Chairman Candido questioned whether a condition prohibiting enclosure of the open terrace would actually be enforced.

On motion made by Board Member Bate, seconded by Board Member D'Avella to grant the requested floor area ratio, impervious coverage and side yard setback variances subject to (1) compliance with comments 3.1, 3.5 through 3.9, 4.1 through 4.4 of the Petry Engineering review memorandum dated October 29, 2021 and (2) the open covered terrace shall not be enclosed was approved by a vote of 5 – 2 (Vice-Chairman Spellman, Board Members D'Avella, Bate, Albulescu and Scolnick voting in the affirmative and Chairman Candido and Secretary O'Beirne voting in the negative).

Board Member D'Avella expressed concerns regarding comments directed to applicants by members of the public. He suggested comments should be made to the Board.

There being no further business before the Board, on a motion made by Board Member D'Avella, seconded by Vice-Chairman Spellman, the meeting was duly adjourned by unanimous vote at 9:54 p.m.



A. Michael Candido, Chairman
Zoning Board of Adjustment
December 16, 2021