

**ZONING BOARD OF ADJUSTMENT
BOROUGH OF ESSEX FELLS
MINUTES OF THE MEETING OF APRIL 28, 2022**

The meeting was called to order at 7:30 p.m. The Open Public Meetings Act announcement was read as required by law. Those present were: Chairman Candido, Vice-Chairman Michael Spellman, Henry Albuлесcu, Bernard D'Avella, Oscar Bate, Secretary Thomas O'Beirne, Chris Shearin and MJ Jolda. In addition, Michael D. Sullivan, Board Attorney, was present.

On motion made by Board Member D'Avella, seconded by Board Member Bate, the minutes of the meeting of March 24, 2022 were adopted unanimously by all those eligible to vote.

On motion made by Board Member Shearin, seconded by Board Member D'Avella, a resolution establishing revised meeting dates was adopted unanimously.

On motion made by Board Member D'Avella, seconded by Board Member Jolda, the resolution of Alan Landy and Vivienne Decker, 186 Devon Road, Block 4, Lot 10 granting variances in connection with the installation of a generator was approved by a vote of 4 – 0 (Chairman Candido and Board Members D'Avella, Jolda and Bate voting in the affirmative).

The next matter to come before the Board was the continued hearing on the application of Adam and Karen Goldman, 88 Forest Way, Block 8, Lot 4.02 for floor area ratio and side yard setback variances. Board Member D'Avella recused himself from the hearing as he owns property within 200 feet of the subject property. Present at the hearing was Adam Goldman, 88 Forest Way, Essex Fells, New Jersey. Also, present was Les Tribble of Perry M. Petrillo Architects, PC, 9 Park Avenue, Park Ridge, New Jersey, a licensed architect of the State of New Jersey who was accepted as an expert. Board Attorney Sullivan advised that Board Member Shearin had signed a certification that he listened to the recording of the March 24, 2022 hearing and reviewed the exhibits and therefore, he was eligible to vote. Mr. Goldman advised that he had listened to the concerns of the Board and the plan has been revised to remove the screened in porch. The front porch overhang remains and the roof design was altered so that it is 1 ½ story which reduced the FAR.

Mr. Tribble introduced into evidence Exhibit A-2 consisting of Sheet A-1 prepared by his office with a revision date of April 12, 2022. Mr. Tribble described the proposed improvements and noted the floor area ratio has been reduced from 16% to 12% from the initial application where 11% is existing. The 1 ½ story addition on the back creates the side yard setback where the applicants are seeking 29.2 feet. Mr. Tribble introduced into evidence Exhibit A-3 consisting of Sheet T-1 prepared by his office dated May 17, 2019 revised through April 28, 2022.

The matter was opened to the public and no one wished to be heard and the Board deliberated on the application. Board Member Shearin noted the applicants had made a good faith effort to reduce the FAR. Board Member Jolda complimented the design. Board Member O'Beirne complimented the effort to reduce the FAR. Board Member Spellman noted this was an oversized lot and was in favor the application. Board Members Albuлесcu, Bate and Chairman Candido all stated support for the application.

Board Attorney Sullivan noted that if the application is approved it would be subject to the outstanding items contained in the review memorandum prepared by Petry Engineering, LLC dated April 24, 2022 as well as the Order Imposing Scarce Resource Restraint entered March 14, 2022 and the Board's standard conditions relating to the applicants' being bound by all representations made in testimony and responsible for payment of all escrow charges.

On motion made by Vice-Chairman Spellman, seconded by Board Member Jolda to grant the requested floor area ratio variance of 12% and northerly side yard setback variance of 29.2 feet subject to the following conditions: (1) compliance with items 3.2, 3.3, 3.5, 3.6 and 4.1 through 4.5 contained in the review memorandum prepared by Petry Engineering, LLC dated April 24, 2022; (2) compliance with the Order Imposing Scarce Resource Restraint entered March 14, 2022; (3) applicants shall be bound by all representations made in testimony and (4) applicants shall be responsible for payment of all escrow charges was approved by a vote of 7 – 0 (Chairman Candido, Vice-Chairman Spellman, Secretary O'Beirne and Board Members Shearin, Jolda, Albulescu and Bate voting in the affirmative).

The next matter to come before the Board was the hearing on the application of Kai Olderog / Acton Academy Verona, 320 Runnymede Road, Block 13.02, Lot 13 for preliminary and final site plan, use, floor area ratio and bulk variances. Michael Piromalli, Esq. of the firm Gaccione Pomaco, P.C. was present on behalf of the applicants. Mr. Piromalli noted the application contemplates renovation of the interior of the building for private educational use. The applicant operates Acton Academy in Verona. The subject property is located in the A-6 Zone and the proposed school use is not permitted. The applicant also seeks variances relating to floor area ratio and bulk variances. Mr. Piromalli introduced the applicant, Kai Olderog, 40 Glen Avenue, West Orange, New Jersey. Mr. Olderog stated he is the contract purchaser of the subject property. He operates a "micro" school in Verona which is currently at capacity. At the proposed location, there would be three full-time employees and one part-time employee present from approximately 10 a.m. to 2 p.m. He anticipated that approximately 20% of the students would be siblings and would arrive together and an additional 10 to 20% would car pool. He did not expect any deliveries on site other than Amazon shipments. There is a kitchen area but there is no meal preparation. Acton Academy in Verona is in its fifth year. The "micro" school concept is designed to be small and operates under a "theory of tribes." In Verona, there are currently 30 students in a significantly smaller space. The school includes students from kindergarten through grade 12. Instruction is broken down into four "cohorts" namely, kindergarten and first grade, grades two through five, grades six through nine and grades 10 through 12. Acton Academy is part of a network of 300 schools worldwide. Mr. Olderog indicated that because it is a private school it is not accredited by the State of New Jersey. Mr. Olderog indicated he was seeking approval to permit 157 students but that was not written in stone. He referenced the April 21, 2022 report from Officer Kevin Brogan of the Essex Fells Police Department which opined that using the peak parking rate, the new site would be able to accommodate 80 enrolled students. In response to a question from Board Attorney Sullivan, Mr. Olderog stipulated to not more than 80 students which would still include three full-time employees present from approximately 7:45 a.m. to 4:00 p.m. and one part-time employee. In response to a question from a Board Member, Mr. Olderog indicated that tuition is \$10,000.00 per year per student. Michael Piromalli, Esq. reiterated that the applicant would accept as a condition a limit of 80 students.

indicated that the NJDOT data is from 2018 and that traffic counts during COVID were less. He did look at line of sight distances and noted there are no sidewalks along Runnymede Road. Garbage pickup would be private and would not occur during pick up or drop off times.

Officer Kevin Brogan of the Essex Fells Police Department, 255 Roseland Avenue, Essex Fells, New Jersey clarified that his report was not a recommendation of 80 students. He expressed concern about vehicles backing up onto Runnymede Road. The Police Department does not have sufficient staff to deal with such an issue. Captain Scott Jones of the Essex Fells Police Department, 255 Roseland Avenue, Essex Fells, New Jersey stated the ultimate concern is how traffic is handled on Runnymede Road. There is nowhere to stage cars in the event of a backup. He reiterated the department does not have sufficient manpower to address traffic issues at the school. Captain Jones noted there is no parking permitted on Buttonwood Road. In response, Mr. Staigar indicated that 40 students in a half hour would be expected at drop off which translates to 28 cars. Even if it was 40 cars that number can easily be handled on site. Captain Jones expressed concern about the choke point in the driveway and snow conditions. In response to a question, Mr. Piromalli indicated that the applicant would be responsible to maintain a driveway easement currently being negotiated with the Borough. Captain Jones also noted that if a car parked on Runnymede Road it may be ticketed subject to the discretion of the officer. He noted that if cars back up onto Runnymede Road officers would clear them away.

Mr. Piromalli stated that there would be some school activities between 4:00 p.m. and 5:00 p.m. but there would be no activities after 5:00 p.m. or on weekends except back to school night. Mr. Staigar responded to Board Member questions and noted that even if every parking space was filled an additional 10 to 12 vehicles could park in the drive aisles which was a “farfetched” situation so there would be no reason to stack vehicles on Runnymede Road.

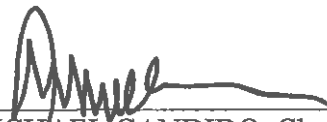
Mr. Piromalli noted that he was negotiating the nature and scope of the driveway easement with Borough Attorney Bob Oostdyk, Esq. A large portion of the driveway is owned by Essex Fells and a small portion is located on the subject property. As part of the easement, the applicant will be responsible to maintain the driveway.

Stephanie Kirsch, 322 Runnymede Road, Essex Fells, New Jersey expressed concerns and asked questions regarding possible blocking of her driveway. Mr. Staigar responded that there would be minimal delays at the driveway and sufficient parking on site so there would be no back up on Runnymede Road. Ms. Kirsch also expressed concerns about cars pulling into her driveway mistakenly believing it is a road. Mr. Staigar responded that the subject property driveway will be identified with a sign.

Mr. Piromalli recalled Kai Olderog. Mr. Olderog indicated that at pick up and drop off he is the monitor and he greets every child in the parking area. After the greeting, they are directed to the school entrance and not running around in all directions. In Verona, the school policy is that you must pull into a parking space and drop off is not allowed outside a parking space and the process works well. Inclement weather does not impact drop off and pick up. In response to a question from Mr. Porro, Mr. Olderog indicated the State of New Jersey does not regulate private schools.

In response to a request from Board Attorney Sullivan, Mr. Piromalli consented to an extension of time for the Board to act through the end of June 2022. On motion made by Board Member D'Avella, seconded by Vice-Chairman Spellman, the matter was carried to May 16, 2022 at 7:30 p.m. with no further notice by unanimous vote.

There being no further business to come before the Board, on a motion made by Board Member D'Avella, seconded by Vice-Chairman Spellman, the meeting was duly adjourned at 10:35 p.m. by unanimous vote.



A. MICHAEL CANDIDO, Chairman
Zoning Board of Adjustment
May 16, 2022