

**ZONING BOARD OF ADJUSTMENT  
BOROUGH OF ESSEX FELLS  
MINUTES OF THE MEETING OF MAY 26, 2022**

The meeting was called to order at 7:33 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, MJ Jolda, Bernard D'Avella, Bill Kovacs and Oscar Bate. 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 May 16, 2022 were adopted unanimously by all those eligible to vote.

The next matter to come before the Board was the application of Jaclyn and Bill Courter, 30 Forest Way, Block 11.07, Lot 7 for floor area ratio, side yard setbacks and front yard setback variances. Present at the hearing was Jaclyn and Bill Courter, 30 Forest Way, Essex Fells, New Jersey. Also present was Timothy Klesse, 38 Chatham Road, Short Hills, New Jersey, a licensed architect of the State of New Jersey who was accepted as an expert.

Bill Courter advised the Board that they grew up in the area and went to West Essex High School. They have made this application because they need additional space. Mr. Klesse noted the property is in the R-4 Zone and the lot is undersized consisting of 13,332 square feet where a minimum of 20,000 square feet is required. The lot width is also undersized at 79 feet where a minimum of 100 feet is required. The existing front yard setback is nonconforming at 58 feet where a minimum of 62.4 feet is required. The proposed front yard setback is not any greater than 58 feet. The left side setback is 23.2 feet where a minimum of 22 feet is required and 12.3 feet is proposed. The right side setback is 15.2 feet where a minimum of 22 feet is required and 12.4 feet is proposed. The impervious coverage complies with the ordinance. The applicants are seeking a floor area ratio of 19.5% where a maximum of 17% is allowed. He noted the existing building height is 29 feet where a maximum of 35 feet is allowed and 24 feet is proposed. The proposed additions are concentrated in the rear and are in scale with the neighborhood. The existing inefficiencies of the building lead to a larger FAR. The applicants could knock the home down and build a taller home in compliance with the floor area ratio variance, however, that would hurt the streetscape.

Mr. Klesse referred to Sheet BOA-1 dated January 19, 2022 revised April 4, 2022 prepared by his office consisting of a site plan and zoning chart. He noted the home is on a 15 degree angle from the street. The proposed two-story addition is behind the garage. The covered patio which is not enclosed counts towards the FAR and consists of approximately 200 square feet of floor area. He referred to Sheet BOA-2 dated January 19, 2022 consisting of a first floor plan. He noted the family room addition on the left side extends approximately 10 feet. He referred to Sheet BOA-3 dated January 19, 2022 consisting of a second floor plan which added a bedroom in the rear resulting in a total of four bedrooms. He referred to Sheet BOA-4 dated January 19, 2022 consisting of front and left side elevations. He also referred to Sheet BOA-5 dated January 19, 2022 consisting of rear and right side elevations. He noted the front yard presents itself as large due to the location of the building on the lot and the property can accommodate a larger floor area ratio. He introduced Exhibit A-1 consisting of two photos of the existing building and

a marked up Sheet BOA-1. In response to a question from a Board Member, Bill Courter noted his home is approximately 30 to 40 feet away from the neighbor to the left and that house is closer to the road. Mr. Klesse introduced Exhibit A-2 consisting of a video of the streetscape of Forest Way. In response to a concern expressed by Chairman Candido, the applicants stipulated they would add two 3 foot wide by 4 foot 6 inches high windows on the left side elevation of the family room addition. In response to a question from Board Member Jolda, Bill Courter noted that the proposed additions maintain the large backyard which is an asset to the property. He also noted the home to the left is approximately 10 feet higher in elevation. Mr. Klesse stated the purpose of Exhibit A-2 was to show the location and heights of buildings along Forest Way. In response to questions from Secretary O'Beirne, Mr. Klesse noted the existing width of the home is 34.6 feet and the proposed width would be 44.6 feet excluding the overhang over the mudroom which consists of 3 feet 6 inches. Mr. Klesse stating the existing square footage of the home is 1,896 square feet which will increase to 2,603 square feet if the application is approved.

Board Member Bate expressed concerns over the visual impact of the proposed covered front porch. Mr. Klesse noted that this was not a priority and noted it will not be enclosed. In response to questions from the Board, Bill Courter stated they have two children and would like the fourth bedroom in order to accommodate an expanding family and home office use. In response to a question, Bill Courter noted the addition of the home would be wood clapboard to match the existing. Board Member D'Avella stated he believed the front covered porch is absolutely necessary and looks better. In response to a question from the Board, Mr. Klesse noted the shed no longer exists on the property and thus, 65 square feet can be removed from the floor area ratio calculation bringing the requested floor area ratio variance to 19%.

The matter was opened to the public and no one wished to be heard and the Board deliberated on the application. Chairman Candido noted the existing house is plain and the porticos add an attractive visual feature which counts in the floor area ratio. The Board had previously recommended leniency in the ordinance regarding covered porches, however, the council has taken the position that the Board should review these matters on a case by case basis. Chairman Candido noted the addition on the left side is behind the back line of the neighbor's home and was in favor of the application. Secretary O'Beirne expressed concerns about the reduction in the side yards and the overall width of the home. He also noted that the applicants have the ability to build an addition to the rear and was opposed to this application. Board Member Jolda stated she was "somewhat torn" and noted the challenges faced by applicants. Vice-Chairman Spellman had no problem with the floor area ratio but was struggling with the side yard setbacks. He did note the additions provide balance to the home and noted no neighbors were present to object. Board Member D'Avella also noted no neighbors were present to object and the proposed additions add aesthetically to the home. The house to the left is closer to the street and he was in favor of the application. Board Member Bate stated he had no problem with the floor area ratio but noted if an addition was built to the rear it would be invisible from the street. He also noted that neighbors may be opposed to the application but are reluctant to appear in opposition to avoid alienating the applicants.

Board Attorney Sullivan noted that if the application is approved it should be subject to installation of the windows in connection with the family room addition, compliance with comments 3.1, 3.2 and 4.1 through 4.4 contained in the review memorandum prepared by Petry

Engineering, LLC dated April 27, 2022 as well as the standard scarce resource restraint condition. Mr. Klesse noted the site is unique and the building is rotated on the property. The left side addition is only one story and approval of this application would not set a precedent. There are existing green giant arborvitae along front left portion of the property which will minimize the visual impact of the additions. The applicants stipulated that they would add 10 green giant arborvitae 8 feet in height to minimize the visual impact of the addition on the right side. The applicants also stipulated they would agree to a condition that the covered porch and two porticos shall not be enclosed.

On motion made by Board Member D'Avella, seconded by Vice-Chairman Spellman to grant the requested floor area ratio variance of 19% where a maximum of 17% is allowed subject to the following conditions: (1) installation of the windows in connection with the family room addition; (2) compliance with comments 3.1, 3.2 and 4.1 through 4.4 contained in the review memorandum prepared by Petry Engineering, LLC dated April 27, 2022; (3) compliance with the Order Imposing Scarce Resource Restraint entered March 14, 2022; (4) the additions will be wood clapboard to match the existing home; (5) the applicants shall install 10 green giant arborvitae 8 feet in height on the right side of the property to minimize the visual impact of the additions and (6) the covered porch and two porticos shall not be enclosed was approved by a vote of 6 – 1 (Chairman Candido, Vice-Chairman Spellman and Board Members Jolda, Bate, Kovacs and D'Avella voting in the affirmative and Secretary O'Beirne voting in the negative).

On motion made by Board Member D'Avella, seconded by Vice-Chairman Spellman to grant a left side yard setback variance of 12.3 feet where a minimum of 22 feet is required and right side setback of 12.4 feet where a minimum of 22 feet is required and front yard setback of 58 feet where a minimum of 62.4 feet is required subject to the conditions imposed as part of the grant of the floor area ratio variance was approved by a vote of 4 – 3 (Chairman Candido, Vice-Chairman Spellman and Board Members Kovacs and D'Avella voting in the affirmative, Secretary O'Bierne and Board Members Bate and Jolda voting in the negative).

Board Attorney Sullivan noted there are no applications scheduled for the Board's June 13, 2022 meeting. On motion made by Vice-Chairman Spellman, seconded by Board Member Jolda, the meeting of June 13, 2022 was canceled by unanimous vote.

There being no further business to come before the Board, on a motion made by Vice-Chairman Spellman, seconded by Board Member Jolda, the meeting was duly adjourned at 9:07 p.m. by unanimous vote.



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A. MICHAEL CANDIDO, Chairman  
Zoning Board of Adjustment  
June 23, 2022