

**ZONING BOARD OF ADJUSTMENT
BOROUGH OF ESSEX FELLS
MINUTES OF THE MEETING OF DECEMBER 12, 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, Oscar Bate, MJ Jolda, Allison Semaya, William Kovacs and Bernard D'Avella. In addition, Michael D. Sullivan, Board Attorney, was present.

On motion made by Board Member D'Avella, seconded Board Member Semaya, the minutes of the meeting of November 14, 2022 were adopted unanimously by all those eligible to vote.

The next matter to come before the Board was the hearing on the application of Greg Woods and Michelle Gettings, 49 Oak Lane, Block 11, Lots 4 and 5 for floor area ratio, impervious coverage and rear yard setback variances. Present at the hearing was Michelle Gettings, 141 Bloomfield Avenue, Verona, New Jersey. Also present was George Held, 600 Getty Avenue, Suite 307, Clifton, New Jersey a licensed architect in the State of New Jersey who was accepted as an expert.

Board Attorney Sullivan noted the applicants have received a waiver from the Order Imposing Scarce Resource Restraint granting approval for sewer service by correspondence dated October 10, 2022 from Francis J. Banish III, PP/AICP, Special Master. Mr. Held referred to his architectural plans last revised October 27, 2022. The applicants are proposing an addition and alterations to the existing single-family home. The property is a corner lot with frontage on Oak Lane and Wootton Road and contains lot area of 12,853 square feet. The existing home is a 2 ½ story single-family residence with four bedrooms and 2 ½ bathrooms. The proposed 1 ½ story addition will add a master suite. The proposed addition will complement the existing architecture and all materials will match the existing home. The applicants also propose a small addition to the existing deck and the installation of a hot tub in the rear. The applicants are seeking a rear yard setback variance to permit 30 feet where a minimum of 40 feet is required, impervious coverage of 34.6% where a maximum of 25% is allowed and a floor area ratio of 28.16% where a maximum of 25% is allowed. The applicants' engineer is providing four inlets and an oversized seepage pit to accommodate a 100 year storm. The improvements will capture stormwater associated with the new addition and lessen the impact of stormwater associated with the existing home.

Board Attorney Sullivan referred to the review memorandum prepared by Petry Engineering, LLC dated November 17, 2022. The applicants stipulated they would comply with comments 2.1, 2.4, 4.1, 4.3 through 4.7 and 5.1 through 5.4.

Mr. Held stated the attic in the proposed addition is not habitable and would contain HVAC equipment. He discussed the rear yard setback and noted the 30-foot setback is required for a portion of the deck and the hot tub. The setback of the home is 25.48 feet to Oak Lane which is a preexisting nonconforming condition. The property is irregularly shaped and but for a jog in the rear, the rear yard setback would comply.

The next witness to testify was John McDonough, 101 Gibraltar Drive, Morris Plains, New Jersey, a professional planner and landscape architect who was accepted as an expert. Mr. McDonough reiterated the variances being sought by the applicants. He referred to the 2018 Master Plan which seeks protection against excessive floor area and noted the Board can give relief where appropriate. Mr. McDonough said the lot is a pie shaped corner lot and the area closest to the corner is landscaped and open. The property is generally free of environmental constraints and there are no steep slopes or streams. Homes in the area range in size from 1,800 square feet to 5,200 square feet. There exists vegetation in the front of the property which will soften and minimize the impact of the addition.

Mr. McDonough discussed the floor area ratio variance and cited the *Randolph Town Center* case and noted the focus is on whether the site will accommodate the problems associated with the proposed larger floor area. Approval of the application will provide for home improvement which would be a value to the neighborhood. The aesthetics are a positive and provide balance and proportionality. Approval of the application provides for the efficient use of land. Mr. McDonough stated approval of the application would advance purposes of the Municipal Land Use Law specifically N.J.S.A. 40:55D-2a, i, and m. With respect to the negative criteria, the site can accommodate the additional square footage and the addition will not be intrusive and is compatible with the neighborhood. With respect to the impervious coverage variance, there are substantial stormwater controls proposed. The rear yard variance relates to a portion of the deck and hot tub which is de minimis. Mr. McDonough indicated the landscaping along the street will remain untouched.

Board Members questioned whether the addition could be reduced in size. Ms. Gettings indicated that they looked at reduced size additions but they were not architecturally appealing. Reducing the floor area ratio would sacrifice aesthetics. Mr. Held noted the roof pitch of the addition matches the roof pitch of the existing home. A discussion ensued regarding the calculation of the required front yard setbacks pursuant to Section 170-112. Mr. Held reiterated the siding, roofing and trim of the addition will match the existing home.

Mr. McDonough stated the scale of the home was compatible with homes in the area. He referred to 41, 45 and 47 Oak Lane and noted the living area ranges between 1,800 square feet and 2,900 square feet. These lots have an approximate depth of 240 feet and lot areas range from 12,000 to 15,000 square feet. The subject property has a depth ranging from 125 to 130 feet.

The matter was opened to the public and no one wished to be heard. Board Member Kovacs noted the setback to the hot tub appears greater due to the location of the fence on the adjacent property. Approval of the project would have aesthetic benefits. Board Member Semaya said she appreciated the effort made by the applicants to blend in with the neighborhood and maintain the character of the area. Board Member D'Avella noted there were two very large homes in the area and approval of this application would improve the aesthetics of the home. Vice-Chairman Spellman complimented the architect and noted the vegetative screen in the front would remain. Board Member Jolda complimented the design. Board Member Bate stated the addition is too large for its position on the lot, the screening is very thin and additional landscaping should be added if approved. Chairman Candido stated the architect's plan was tastefully done. The house

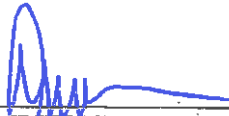
to the left has a large addition which is not as aesthetically pleasing as the proposed addition. The addition will not look out of place.

On motion made by Vice-Chairman Spellman, seconded by Board Member D'Avella to approve the application for floor area ratio, impervious coverage and rear yard setback variances subject to the following conditions: (1) compliance with comments 2.1, 2.4, 4.1, 4.3 through 4.7 and 5.1 through 5.4 contained in the review memorandum prepared by Petry Engineering, LLC dated November 17, 2022; (2) the applicants shall be bound by all representations made in testimony presented to the Board and (3) the applicants shall be responsible for the payment of all escrow charges incurred in connection with review of this matter was approved by a vote of 6 – 1 (Chairman Candido, Vice-Chairman Spellman and Board Members Jolda, Semaya, Kovacs and D'Avella voting in the affirmative and Board Member Bate voting in the negative).

The Board discussed rescheduling the January 2023 meeting due to conflicts. On motion made by Board Member D'Avella, seconded by Board Member Semaya, the Board unanimously agreed to move the January 26, 2023 meeting to January 30, 2023 at 7:30 p.m.

Mayor Ed Davis, 74 Hathaway Lane, Essex Fells, New Jersey asked to address the Board. He thanked Board Members for their service and invited recommendations from the Board as part of the annual report to the Governing Body. Mayor Davis discussed issues affecting the Borough including the use of homes for business purposes and noted the zoning ordinance will be updated in the near future. Tree removal is an issue and the Board should be cognizant that where large trees are removed replacement trees can be planted on site or off site. The lighting ordinance will be tightened up to reflect modern technology. The Board should also be careful to scrutinize applications for floor area ratio variances as part of "renovations." In some cases, the applicant may be knocking the whole house down or retaining a single wall effectively making the application a tear down. The Borough is concerned with an applicant who may file a second application to the Board without satisfying conditions of a prior Board approval. The Borough is concerned with enforcement issues. Chairman Candido complimented Petry Engineering for their review of the applications.

There being no further business to come before the Board, on motion made by Vice-Chairman Spellman, seconded by Board Member Jolda, the meeting was adjourned 9:10 p.m.


A. MICHAEL CANDIDO, Chairman
Zoning Board of Adjustment
January 30, 2023