

**ZONING BOARD OF ADJUSTMENT
BOROUGH OF ESSEX FELLS
MINUTES OF THE MEETING OF JUNE 29, 2023**

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 Michael Candido, Vice-Chairman Michael Spellman, Secretary Thomas O'Beirne, Bernard D'Avella and Chris Shearin. In addition, Michael D. Sullivan, Board Attorney, was present.

On motion made by Board Member Shearin, seconded by Secretary O' Beirne, the minutes of the meeting of June 22, 2023 were adopted unanimously by all those eligible to vote.

On motion made and seconded by Board Member Shearin, the resolution of Eiler Marcher and Dorothy Zajac, 4 & 6 Wootton Road, Block 10.02, Lots 26 and 24 for a six-month extension of variance approvals and to perfect the minor subdivision was approved by a vote of 1 – 0 (Board Member Shearin voting in the affirmative).

The next matter to come before the Board was the application of Dominic M. Garabedian, 242 Fells Road, Block 6.03, Lot 15. Dennis J. Francis, Esq. was present on behalf of the applicant. Mr. Francis identified the subject property as being located in the RA-4 Zone. It is a corner lot with frontage on Fells Road and Oldchester Road consisting of 22,821 square feet. The applicant proposes to remove a portion of the existing dwelling and construct a second story addition over a portion of the existing dwelling that is to remain. The home will increase from two bedrooms to five bedrooms. The greenhouse is proposed to be removed along with walkways. New walkways and a front porch are proposed. The air conditioning condenser will be relocated. The application will reduce nonconformities relating to impervious coverage, rear yard setback and front yard setback.

Mr. Francis called Giovanni Manilio of Careaga Engineering, Inc., 382 Route 46 West, Budd Lake, New Jersey who was accepted by the Board as an expert engineer. Mr. Manilio referred to the Plot & Grading Plan prepared by his office, Sheet 1 dated December 28, 2022 revised through June 1, 2023. Mr. Manilio noted the existing property is improved with a one-story two bedroom ranch. The existing front yard setback from Fells Road is 69.6 feet and 72.4 feet is proposed where 100 feet is required. The existing front yard setback from Oldchester Road is 77.8 feet and 102.7 feet is proposed where a minimum of 84.4 feet is required which complies. The rear yard setback is 27 feet and 32.7 feet is proposed where a minimum of 50 feet is required. The impervious coverage is 31.9% and 29% is proposed where a maximum of 25% is allowed. In addition, the generator is nonconforming located in the front yard and will be relocated to a conforming location.

Mr. Manilio stated the home was built in 1952 and it is not functional and does not meet the needs of the owner. He noted a portion of the dwelling and the greenhouse would be removed as well as some walkways. A second story addition over a portion of the existing structure is proposed. This will result in a total of five bedrooms. Mr. Manilio noted the variances could be approved under both c(1) and c(2). The front yard setback from Fells Road, rear yard setback

and improved lot coverage are all being brought closer to conformity to the ordinance. The nonconformity relating to the front yard from Oldchester Road will now comply. The nonconforming generator located in the front yard will be relocated to a conforming location. There will be no detriment resulting from approval of this application. Board Attorney Sullivan referenced the June 19, 2023 memo from Petry Engineering, LLC and noted that if the application is approved, it would be subject to compliance with comments 4.1 and 5.1 through 5.4 and the applicant agreed.

In response to questions from the Board, Mr. Manilio indicated the portion of the home to be demolished contains a cellar. Mr. Manilio referred to the architectural plans prepared by John E. Giammarino, R.A. Sheets A-001, A-101, A-102, A-103 and A-201 dated March 7, 2023. He noted the cellar in the portion of the home to be retained would remain as a cellar. He also stated it is not the intention of the applicant to knock the house down. In response to a question from the Board, he indicated there may be an additional air conditioning unit which would be located next to the relocated unit in conformity with the ordinance.

The next witness to testify was Dominic Garabedian, 242 Fells Road, Essex Fells, New Jersey. He indicated he has two young children and wants two more children and would like to stay in the home which they have overgrown. He believed the home with the proposed addition will fit into the neighborhood and upgrades the current home which is dilapidated.

Mr. Francis noted the application will result in an improvement to the neighborhood and community and upgrades the home which is dilapidated. The applicant wishes to stay in the home which he purchased two years ago. There would be no problems associated with the approval of this application.

The matter was opened to the public and no one wished to be heard. The Board began deliberations. Board Member Shearin expressed his appreciation that the building footprint would not be expanded. The plan makes sense and the property can accommodate the proposed addition which will look better. Secretary O'Beirne noted the nonconformities relating to front yard setback, rear yard setback and impervious coverage were being improved. The proposal will result in a more attractive home. Board Member D'Avella said he agreed of the comments of Secretary O'Beirne. Vice-Chairman Spellman asked about tree removal and the applicant responded that no trees would be removed as part of the project. If anything, he will add trees. Chairman Candido noted that tree removal requires a permit from the Borough. Vice-Chairman Spellman indicated his support for the project. Chairman Candido noted the application did require variances but nonconformities were reduced and he was in favor.

On motion made by Board Member D'Avella, seconded by Board Member Shearin to approve the application for impervious coverage, rear yard setback and front yard setback variances subject to the following conditions: (1) compliance with comments 4.1, 5.1 through 5.4 contained in the review memorandum prepared by Petry Engineering, LLC dated June 19, 2023; (2) the applicant shall be bound by all representations made in testimony presented to the Board; (3) the applicant shall be responsible for the payment of all escrow charges incurred in connection with review of this matter and (4) compliance with the Order Imposing Scarce Resource Restraint was approved by a vote of 5 – 0 (Chairman Candido, Vice-Chairman

Spellman, Secretary O'Beirne and Board Members Shearin and D'Avella voting in the affirmative).

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 at 8.02 p.m. by unanimous vote.



A. MICHAEL CANDIDO, Chairman
Zoning Board of Adjustment
July 27, 2023