

**ZONING BOARD OF ADJUSTMENT
BOROUGH OF ESSEX FELLS
MINUTES OF THE MEETING OF NOVEMBER 20, 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, Chris Shearin, Oscar Bate, Bernard D'Avella and William Kovacs. In addition, Michael D. Sullivan, Board Attorney, was present.

On a motion made by Board Member Shearin, seconded by Board Member Bate, the minutes of the meeting of October 26, 2023 were adopted unanimously by all those eligible to vote.

On a motion made by Board Member Kovacs, seconded by Vice-Chairman Spellman, the resolution of Ilyssa and Clarke Smith, 161 Devon Road, Block 4.01, Lot 4 granting a front yard setback variance was approved by a vote of 5 – 0 (Vice-Chairman Spellman, Secretary O'Beirne and Board Members Kovacs, Shearin and Bate voting in the affirmative).

On a motion made by Board Member D'Avella, seconded by Board Member Shearin, at the request of the applicants, the application of Salvador and Ana Vitaliti, 223 Runnymede Road, Block 13, Lot 3 for floor area ratio and impervious coverage variances was unanimously carried to the Board's December 11, 2023 meeting at 7:30 p.m. without further notice.

The next matter to come before the Board was the continued hearing on the application of Aanand and Mukti Geria, 193 Rensselaer Road, Block 12.02, Lot 4.06 for floor area ratio, front yard setback, steep slope disturbance and retaining wall variances. Michael Lipari, Esq. of Mandelbaum Barrett, PC was present on behalf of the applicants. Board Attorney Sullivan noted that Member Kovacs had signed a certification by absent member that he listened to the recording of the hearing held on September 28, 2023 and is eligible to vote. Mr. Lipari noted that the plans had previously been revised to eliminate the variance relating to impervious coverage.

Mr. Lipari called Afton Savitz of Stonefield Engineering, 192 Park Avenue, Rutherford, New Jersey. Ms. Savitz investigated whether rotating the home would lessen steep slope disturbance and stated there would not be any change. She also stated the limits of disturbance for the water/sewer line relocation within the 20-foot wide easement would disturb an additional 700 square feet of steep slopes. She stated the request for a variance for disturbing steep slopes between 15% and 19.9% will increase to 62.2% from 55.9% where a maximum of 50% is permitted. She reiterated that any development of the lot will require disturbance of steep slopes. Preliminary test pits were dug to confirm soil conditions and infiltration is expected to be 3 inches to 8 inches per hour. Post-construction stormwater conditions are anticipated to be improved over existing conditions. The test pits results will be submitted to the Board Engineer for review and approval. The application requires a variance for a retaining wall in the front yard which is at a height of 2.5 feet. Ms. Savitz referred to Sheet C-4 of the Site Plan prepared by her office last revised September 14, 2023. The applicants have identified an area on the left side of the property where the sewer and water lines could be relocated. The applicants would provide a 20-foot wide sewer and water easement subject to review and approval by the Borough Engineer.

In response to a question from a Board Member, Ms. Savitz indicated that if the home was rotated it could reduce the front yard setback variance but would impact the easement in the rear of the property. She reiterated that the test pit was dug at a depth of 16 feet and no ground water was present. The retaining wall is necessary in order to flatten out a developable area.

Dennis Cusak, 16 Holy Lane, Essex Fells, New Jersey asked questions regarding the soil testing equipment on site. He questioned whether the operator of the equipment was aware of the easement in the rear. A discussion ensued as to relocation of the water and sewer lines. Mr. Lipari confirmed the applicants have the right to relocate the water and sewer lines but would have to work with the utility companies and the relocation would be at the applicants' cost.

Mr. Lipari called Yuval Wellisch, 211 West End Avenue, Raritan, New Jersey who was accepted by the Board as an expert architect. Mr. Wellisch referred to his architectural plans dated April 7, 2023. He noted the proposed home is a two-story three-car garage traditional center hall Colonial. He referred to Sheet A1 Front and Left Side Elevations. Horizontal siding is proposed on the first floor and vertical siding on the second floor separated by an Azek trim board. The siding would be very durable, Hardie plank, no wood or vinyl. Mr. Wellisch referred to Sheet A2 Rear and Right Side Elevations, Sheet A3 Basement/Foundation Plan, Sheet A4 First Floor Plan, Sheet A5 Second Floor Plan and Sheet A6 Roof Plan. He noted the roof would be asphalt except for the turrets. The stone on the bottom of the home is not real. The home would contain four bedrooms and five bathrooms.

Mr. Wellisch stated the home contains a floor area of 7,269 square feet where a maximum of 5,937 square feet is allowed pursuant to the floor area ratio requirement. A discussion ensued as to the accuracy of these numbers. The FAR Calculation Worksheet submitted by the applicant prepared by Matthew Seckler, PE dated February 22, 2023 indicates the proposed floor area of the home is 8,577 square feet which based upon a lot area measured to the right-of-way of 44,237 square feet yields a floor area ratio of 19.4%. Chairman Candido questioned why the floor area ratio requirement seemed to be ignored by this application. He noted the lot requirement in the zone is 21,780 square feet and this property is over twice the size. Chairman Candido noted that a home constructed on a lot of 21,780 square feet in size would be permitted a floor area of 2,831 square feet which is significantly less than what is proposed here. Mr. Wellisch said that he typically follows the zoning requirements but that the client dictated the size of the home. He noted that 693 square feet of the floor area is attributed to open space over the family room and the foyer. It was further noted that if the home was reduced in size, the floor area ratio could be reduced and the front yard setback increased.

The discussion returned to the discrepancy between Mr. Wellisch's testimony as to the floor area and the floor area contained on applicants' FAR Calculation Worksheet. Mr. Lipari requested the matter be carried in order to clarify issues around the floor area calculation. On motion made by Vice-Chairman Spellman, seconded by Board Member D'Avella, the matter was unanimously carried to the Board's December 11, 2023 meeting at 7:30 p.m. without further notice.

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 8:52 p.m. by unanimous vote.



A. MICHAEL CANDIDO, Chairman
Zoning Board of Adjustment
December 11, 2023