

PLANNING BOARD
BOROUGH OF ESSEX FELLS

MINUTES OF THE MEETING OF DECEMBER 14, 2023

The meeting was called to order at 7:02 p.m. The Open Public Meetings Act announcement was read by Chairman Bob Burchell, as required by law. Those present were Chairman Burchell, Bud D'Avella, Jim Irwin, Dave Isabel, Vice Chairman Jody James, John King, and Secretary Peter McMullen.

Approval of Minutes

A motion to approve the minutes of the Planning Board meeting of November 9, 2023 was made by Bud D'Avella and seconded by Peter McMullen. The minutes were approved 7-0.

Approval of Resolutions

None

Hearings

Abdul Rauf Bhatti
7 and 2 Norcroft Road
Block 1, Lots 3.07 and 3.17
Essex Fells, New Jersey 07021
Minor Subdivision, variances for lot width and slope disturbance,
Relief pursuant to N.J.S.A. 40:55D-36

Chairman Burchell recused himself from conducting the hearing due to living within 200 feet of the subject matter. He took a seat in the general seating area with the public. Vice Chairman Jody James assumed leadership of the hearing. Stephen Joseph, Esq. of the law firm Castano, Quigley, and Cherami appeared on behalf of the applicant. The hearing on the aforementioned property resumed after the Planning Board requested revisions at the meeting held on November 9, 2023.

Planning Board Attorney Michael Sullivan reminded Marc Walker, P.E., of the firm Dykstra Walker Design Group that he was still under oath from the November 9, 2023 meeting. Mr. Walker distributed proposed Minor Subdivision Exhibit prepared by his office dated December 14, 2023 that was accepted as Exhibit A-5. He stressed that the Flag Lots were eliminated. The revised lots will have no frontage. He said that lots 3.18 and 3.19 are modest and are about the same size (.80 acre). As a result of this adjustment, lot 3.17 is now bigger (.99 acre). Mr. Walker noted that the changes created an effective lot area for the impervious coverage formula. J. Michael Petry, P.E of the firm Petry Engineering (representing the Borough of Essex Fells) joined the dais and Mr. Sullivan reminded Mr. Petry that he was under oath from the November 9,

2023 meeting. For future development, the proposed pavement area of the roadway shall be excluded from the overall lot areas in an effort to create an effective lot area. In response from a question from Jim Irwin, Mr. Walker indicated that driveways would count towards impervious coverage. Mr. Walker and Mr. Petry collaborated on a setback plan. The minimum is 50 feet. Mr. Walker stipulated the applicant would comply with the memorandum prepared by Petry Engineering LLC dated December 6, 2023 including items 4.2, 4.4, 4.6, 4.7, 4.9, 4.10, 4.12, 4.15, 4.16, 4.18, 5.1, 6.1, and 7.1. Mr. Irwin asked if the plan still included one lot with a septic system. Mr. Walker replied that a conversation with a Special Master would allow up to 500 gallons (a house typically uses 300 gallons). Lot 3.18 would have the septic system (soil is acceptable) and lot 3.19 would have a sewage line. Eventually, lot 3.18 would be added to the sewage line, assuming the Borough of Caldwell moratorium on adding new customers ends. Mr. Walker said that running the Main up road, versus creating an easement on the southwest side of lot 3.17 is preferred. Ms. James asked about leaf and snow removal. Mr. Walker replied that a Homeowners Association would be responsible for leaf and snow removal. Mr. Sullivan noted that the property owner must follow the tree removal ordinance by making an application and establishing a mitigation plan where required.

Ms. James asked if there were any questions from the public. Bob Burchell of 103 Fells Road was sworn in. He reiterated his concern for the land use and housing specification cited at the November 9, 2023 meeting. He noted that the plan calls for two new lots and one existing lot. He requested that every effort be made to save trees in the different lot areas. Mr. Burchell referred to Exhibit A-4 introduced at the 11/9/23 meeting (Exhibit A-4 aerial photos of subject site, provided by John McDonough Associates). He walked around to each Planning Board member to show the dense, mature shade trees. He asked that the trees on the north border of the property (units 24-50 of The Brownstones) and the west border (Barberry and Fells) be maintained. Mr. Burchell then referred to page (6) of the (8) page Subdivision Plan revised on November 28, 2023, entitled "Soil Erosion & Sediment Control and Tree Removal Plan." He showed this page to Planning Board members. There are numerous trees marked with an "X" to be removed. Mr. Sullivan noted that the property owner will have to follow the borough tree ordinance and implement a mitigation plan that includes planting new trees where required. Mr. Petry noted the plan shows the minimum number of trees to be removed for the new roadway and stormwater drainage system. Mr. Walker stated that additional trees may be removed as the revised lots are established and the new homes are being built.

Mr. Burchell stressed the importance of the accuracy of the stormwater management plan. He stated that his residence and other residences in the vicinity get water in their basements. He expressed his concern for the two proposed new homes and suggested that measures be taken to prevent water in the basements, including installing sump pumps.

Mr. Jack Dusinger of 16 Barberry Way asked to make some comments and was sworn in. He noted that Fells Road acts as a swale when there is heavy rain. He said that Mr. Burchell's comments should be heeded. Mr. Dusinger stated that he liked the revised application. He said that he appreciates that the applicant revised his original plans several times. He emphasized that he is comfortable with the two new homes and that the current plan with

adjusted lot size dimensions and relocated private road. As a result, his property is less affected. He finished by saying that “the applicant and his team have done a great job.”

The Planning Board deliberated over the revised plan. Jody James said that it appears to address our concerns. John King thanked the applicant representatives. Jim Irwin said the plan is good. Peter McMullen said that he appreciates the changes made since the last meeting and that the plan is reasonable. Bud D’Avella said “I like it.”

Planning Board Attorney Michael Sullivan read a list of fourteen (14) conditions:

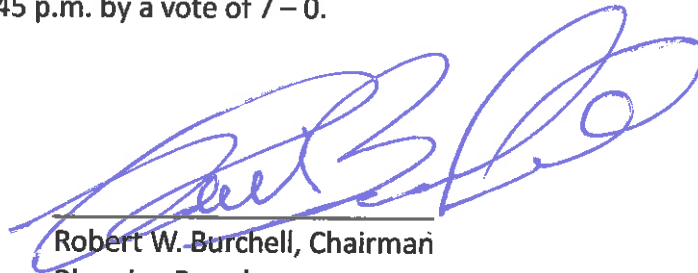
1. The minor subdivision shall be perfected within 190 days unless further extended by the Board.
2. Compliance with an Order Imposing Scarce Resource Restraint.
3. Compliance with comments 4.2, 4.4, 4.6, 4.7, 4.9, 4.10, 4.12, 4.15, 4.16, 4.18, 5.1, 6.1, 7.1 contained in the review memorandum of Petry Engineering, LLC dated December 6, 2023.
4. The private roadway shall be maintained by a Homeowner’s Association comprised of the owners of Block 1, Lot 3.07 and proposed Lots 3.17, 3.18, and 3.19 and the association shall prohibit parking within the private roadway.
5. For future development, the proposed roadway shall be excluded from the overall lot areas in an effort to create an effective lot area. These effective lot area calculations are shown on Sheet 1 of the plans and the effective lot areas shall be utilized for the purpose of impervious coverage calculations.
6. An as-built survey of the realigned private road (Norcroft Road) shall be completed and submitted once the construction of the roadway is complete. The as-built survey shall include a detailed breakdown of the lot areas so that the effective lot areas can be confirmed.
7. Proposed Lots 3.18 and 3.19 shall have a minimum 35-foot front yard setback from the private right-of-way line.
8. If a fence is constructed along the rear yards of proposed Lots 3.19 and 3.18 and the northwesterly side of proposed Lot 3.19, such fence shall be a unified metal fence not to exceed the maximum height permitted by Section 170-79C.
9. The applicant shall record a map description of the limits of steep sloped areas in excess of 14.9% as required by Section 170-68B(1)(g).
10. Compliance with the Tree Removal and Protection Ordinance Section 269-1 et seq.

11. The pool cabana on proposed Lot 3.17 shall not be rented for habitation.
12. The applicant shall obtain all required outside agency approvals including but not limited to the Hudson Essex Passaic Soil Conservation District approval.
13. The applicant shall be bound by all representations made on his behalf in testimony presented to the Board.
14. The applicant shall be responsible for the payment of all escrow charges incurred in connection with review of this matter.

Mr. Petry commented on condition (8) concerning fence construction. He stressed the option to deviate in order to preserve the maximum number of trees. Mr. Joseph asked if there were any other questions or comments. There were none.

Ms. James made a motion to approve the application for minor subdivision, variances and exception for Block 1, Lots 3.07 and 3.17 on Norcroft Road. Mr. D'Avella seconded the motion. The vote in favor was 6 – 0.

Bob Burchell returned to the Planning Board dais from the public seating area and resumed his position as Chairman. He asked if there were other matters for the Board to discuss. There were none. He made a motion to adjourn the meeting. Bud D'Avella seconded the motion. The meeting was adjourned at 7:45 p.m. by a vote of 7 – 0.



Robert W. Burchell, Chairman
Planning Board
January 11, 2024