

**ZONING BOARD OF ADJUSTMENT
BOROUGH OF ESSEX FELLS**

MINUTES OF THE MEETING OF FEBRUARY 22, 2024

The meeting was called to order at 7:00 p.m. The Open Public Meetings Act announcement was read as required by law. Those present were: Chairman Michael Candido, Vice-Chairman Michael Spellman (7:12 p.m.), Secretary Thomas O'Beirne, Oscar Bate, Chris Shearin and William Kovacs. In addition, Michael D. Sullivan, Board Attorney, was present.

On a motion made by Board Member Bate, seconded by Board Member Shearin, the minutes of the meeting of January 25, 2024 were adopted unanimously by all those eligible to vote.

On a motion made by Board Member Shearin, seconded by Board Member Bate, the resolution of Salvador and Ana Vitaliti, 223 Runnymede Road, Block 13, Lot 3 granting a floor area ratio variance was approved by a vote of 3 – 0 (Chairman Candido and Board Members Shearin and Bate voting in the affirmative).

The next matter to come before the Board was the hearing on the application of property owner, 44 Rensselaer Road, Block 6.02, Lot 10 for side yard setback variances. Board Member Bate recused himself from the hearing. The property owner was present along with Julie Anne Cecere, 175 Fairfield Avenue, 4C, West Caldwell, New Jersey, a licensed architect in the State of New Jersey who was accepted as an expert. Ms. Cecere referred to Sheet A-1 "Site Plan, Zoning Analysis, Plans and Perspectives" which she prepared dated December 18, 2023 revised through January 3, 2024. The property owner seeks two side yard setback variances. She stated the existing powder room is not up to code and the plan is to remove the powder room from the foyer and move it into the existing bump out area. The existing stairs to the porch will be removed and the existing porch will be enclosed. The kitchen will be renovated and the side deck will be covered to improve functionality. Ms. Cecere noted the lot is narrow impacting the building envelope. The applicant is proposing to add a second story addition which is located inside the building envelope. Ms. Cecere referred to Sheet A-2 "Elevations and Sections" prepared by her dated December 18, 2023. The proposed additions will have no impact on the street view. She referred to Sheet A-3 "15 Photographs Google Maps Image" prepared by her dated December 18, 2023. A discussion ensued regarding the memo from Petry Engineering, LLC dated January 10, 2024 and Ms. Cecere stipulated the applicant would comply with comments 4.1 through 4.10 and 5.1 through 5.4. Ms. Cecere stated the requested side yard setback variances could be granted under c(1) as the location of the home and lot width create a hardship. In addition, the variances can be granted under c(2) as the home is being brought up to today's standards without any detriment to the area. Ms. Cecere noted the existing easterly side yard setback is 18.70 and the setback would not be exacerbated. The westerly side yard setback is 41.08 feet and the variance request is 40.42 feet. The second floor addition is 179 square feet is located within the building envelope and will enlarge the master bedroom and modify the second floor. The plan depicts a pool, patio and retaining walls in the rear yard which was placed on the plan to confirm compliance with impervious coverage.

The matter was opened to the public and no one wished to be heard. Board Member Shearin indicated he was in favor of the application as this was a minor change and an easy decision. Secretary O'Beirne said he was not in favor of the application as the plan depicted a pool and retaining walls in the rear yard without a stormwater management plan or grading plan. Vice-Chairman Spellman, although not eligible to vote, stated he would be in favor of the application. Board Member Kovacs noted this was a minor encroachment and he was in favor. Chairman Candido had no problem with the application provided the applicant complies with the Petry memorandum.

A motion made by Board Member Shearin, seconded by Board Member Kovacs, to grant the two side yard setback variances subject to the following conditions: (1) compliance with comments 4.1 through 4.10 and 5.1 through 5.4 contained in the review memorandum of Petry Engineering, LLC dated January 10, 2024, (2) the applicant shall be bound by all representations made in testimony presented to the Board and (3) the applicant shall be responsible for the payment of all escrow charges incurred in connection with review of this matter was approved by a vote of 3 – 1 (Chairman Candido and Board Members Kovacs and Shearin voting in the affirmative and Secretary O'Beirne voting in the negative).

The next matter to come before the Board was the application of John and Catherine Walsh, 14 Essex Road, Block 10.07, Lot 10 for front yard setback, side yard setbacks, rear yard setback, floor area ratio and impervious coverage variances. John Walsh, 14 Essex Road, Essex Fells, New Jersey was present. Also present was Julie Ann Cecere, 175 Fairfield Avenue, 4C, West Caldwell, New Jersey, licensed architect in the State of New Jersey who was accepted as an expert. Board Attorney Sullivan advised the applicant that because the application includes a floor area ratio variance, five affirmative votes are required for approval and only six of a possible seven eligible Board Members were present. Ms. Cecere noted that the applicant requires a floor area ratio variance to permit 31.81% where a maximum of 25% is allowed, a front yard setback variance of 51.17 feet where a minimum of 61.58 feet is required, an impervious coverage variance of 38.17% where a maximum of 25% is allowed, a side yard setback variance of 11.56 feet where a minimum of 12 feet is required, a side yard setback for the carport of 1.17 feet where a minimum of 10 feet is required and a rear yard setback for the carport of 8.57 feet where a minimum of 10 feet is required.

Ms. Cecere referred to Sheet A-1 "Site Plan, Zoning Analysis, Plans and Elevations for Main House" prepared by her dated December 1, 2023 revised through December 12, 2023. She noted the lot is angled at the front property line and the house is not parallel to the street. The encroachment of the house into the front yard setback ranges from 1 foot to 3 foot. Currently, the first floor door opens close to the stairs which is a tripping hazard and the applicant's plan includes enlarging the entry way to create a safer environment. A new covered porch and stairs is proposed at the front which is minimal in size. The front porch will be open and will have no impact on the streetscape. The second floor addition includes a master bathroom. The second floor addition is 205 square feet and will add bedroom space and increase functionality. At the rear of the property, the applicant is proposing to construct a carport to be connected to the existing frame garage. The area under the proposed carport is a gravel driveway which the applicant currently parks a car. Ms. Cecere referred to Sheet A-3 "14 Photographs" prepared by her dated December 1, 2023. The next door neighbor's garage is in the far corner of their

property. The carport contributes 192 square feet towards floor area. If the carport were eliminated, the floor area ratio would be reduced to 29.6%. Ms. Cecere stated the application fits in with the neighborhood and would not be out of character.

Mr. Walsh stated he has resided in Essex Fells for 12 years and his son is in the seventh grade and daughter is in the fifth grade and they need more space to make the house more livable. A discussion ensued regarding the memo from Petry Engineering, LLC dated December 18, 2023. Ms. Cecere stipulated the applicant would comply with comments 4.1, 4.3 through 4.6 and 5.1 through 5.4. Ms. Cecere referred to Sheet A-2 "Carport Plan, Elevations and Google Earth Image" prepared by her dated December 1, 2023 revised through December 12, 2023. She noted there is a hedgerow between the subject property and the adjacent property in the area of the garages which will remain. The carport will have a different roof angle than the existing garage. She discussed the roof lines of the proposed addition to the home which she indicated would minimize massing. Ms. Cecere pointed out that only a small portion of the home encroaches into the front yard and that the front covered porch is only one story. The second floor addition does not encroach any further than the existing first floor. In response to a question from a Board Member, Ms. Cecere indicated that the area under the proposed carport would be a concrete slab and the gravel area further to the rear would be seeded. A discussion ensued around the front yard setback calculation which yielded a front yard setback requirement of 61.58 feet. Board Member O'Beirne noted that one of the properties was actually a side yard and that if that was removed from the calculations it would reduce the requirement to 59.16 feet.

The matter was opened to the public. Carolyn Legg, 9 Essex Road, Essex Fells expressed her concerns about the carport and the fact that it was only 1.17 feet from the side property line. She said this was unusually close and inconsistent with many garages in the area which provide a minimum setback of 10 feet. She did acknowledge her garage was setback 3 feet. She further noted that 90% of her property is located in Essex Fells and 10% is in Caldwell. She stated that if this was approved it would be an awful precedent and she was not in favor of the carport or the front entry porch. Dara Chamma, 10 Essex Road, Essex Fells stated she was the adjacent property owner and she was not opposed to the application. Edward Hefernan, 18 Essex Road, Essex Fells stated he had three concerns: (1) the portico in the front setback was inconsistent with the neighborhood from a streetscape view, (2) the carport against the property line would not be a good precedent and was poorly designed and he was concerned that somewhere down the road it would be enclosed and (3) he noted other homes in the neighborhood have additions but they were all added to the rear.

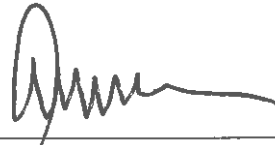
The matter was closed to the public. In response to a question from the Board, Ms. Cecere noted that if the front covered porch and carport were eliminated the floor area ratio would be reduced to 29.2%. Board Member Bate said the carport 1 foot away from the property line was ridiculous and he thought the addition at the front of the home was "in your face" and the FAR could be accommodated on the property but needs to be an addition to the rear. Board Member Kovacs was opposed to the carport and expressed some concern regarding the massing in the front of the home. Board Member Shearin commented that the front covered porch adds texture to the home but was concerned about the massing. Board Member O'Beirne said he was in favor of the application and that the front covered porch was a benefit and he had no problem with the carport. Vice-Chairman Spellman also agreed the front covered porch added texture and noted

the second floor addition of the home barely encroaches into the front yard. Chairman Candido indicated he was opposed to the carport and said the addition to the home would be visually attractive. Board Member Bate commented that a 3D view would be helpful.

Ms. Cecere requested that the matter be carried in order for the applicant to present additional evidence and exhibits. On motion made by Board Member Shearin, seconded by Vice-Chairman Spellman, the matter was carried to the Board's March 11, 2024 meeting at 7:00 p.m. without further notice by unanimous vote.

On a motion made by Vice-Chairman Spellman, seconded by Secretary O'Beirne, a resolution adopting the 2023 Annual Report passed unanimously.

There being no further business to come before the Board, on a motion made by Vice-Chairman Spellman, seconded by Board Member Shearin, the meeting was duly adjourned at 8:32 p.m. by unanimous vote.



A. MICHAEL CANDIDO, Chairman
Zoning Board of Adjustment
March 11, 2024