

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

MINUTES OF THE MEETING OF MARCH 28, 2024

The meeting was called to order at 7:10 p.m. The Open Public Meetings Act announcement was read as required by law. Those present were: Chairman Michael Candido, Oscar Bate, Bernard D'Avella, MJ Jolda, Chris Shearin, William Kovacs and Allison Semaya. In addition, Michael D. Sullivan, Board Attorney, was present.

On a motion made by Board Member Jolda, seconded by Board Member D'Avella, Chris Shearin was appointed Acting Secretary for the meeting by unanimous vote.

On a motion made by Acting Secretary Shearin, seconded by Board Member Bate, the minutes of the meeting of March 11, 2024 were adopted unanimously by all those eligible to vote.

On a motion made by Board Member Bate, seconded by Acting Secretary Shearin, the resolution of John and Catherine Walsh, 14 Essex Road, Block 10.07, Lot 10 to grant floor area ratio, front yard setback, impervious coverage and side yard setback variances and to deny side and rear yard setback variances associated with a carport was adopted by a vote of 3 – 0 (Chairman Candido, Acting Secretary Shearin and Board Member Bate voting in the affirmative).

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 bulk variances. Michael Lipari, Esq., of Mandelbaum Barrett, PC was present on behalf of the applicants. Board Attorney Sullivan noted that all seven Board Members are eligible to vote as absent members have signed certifications. Mr. Lipari noted that the applicants' architect and planner had previously testified and the applicants had put their proofs in the record. The Board raised a number of concerns about the floor area ratio and gave the applicants the opportunity to revise the plans. The plans have now been revised to conform to the floor area ratio requirement.

Board Attorney Sullivan noted the applicants now seek variances to permit: (a) slope disturbance of 49.8% for slopes between 20 and 24.9% where the maximum allowable disturbance is 33.3%; (b) to permit slope disturbance of 32.5% for slopes greater than 25% where the maximum allowable disturbance is 0%; (c) to permit uncovered steps to project 5.6 feet into the required front yard where a maximum encroachment of 5 feet is allowed; (d) to permit two solid retaining walls in the front yard which are not permitted and (e) to permit driveway curb openings of 21.7 feet and 23.7 feet where between 12 and 15 feet are permitted. Mr. Lipari noted variances relating to floor area ratio, front yard setback, impervious coverage, building height and walls in excess of 6 foot in height have all been eliminated. Variance relief has been reduced in a number of cases including (a) maximum encroachment of uncovered steps in the front yard has been reduced from 11.6 feet to 5 feet; (b) steep slope disturbance for slopes between 20 and 24.9% has been reduced from 55.4 % to 49.8% and (c) steep slope disturbance for slopes greater than 25% has been reduced from 37.2% to 32.5%.

Mr. Lipari recalled Afton Savitz, PE of Stonefield Engineering, 192 Park Avenue, Rutherford, New Jersey. Ms. Savitz noted the home has been reduced in size which allowed the uncovered steps to be moved back. The request for a floor area ratio variance has been eliminated. She referred to Sheet C-13 of the plans prepared by her office and noted steep slope variances are necessary in order to develop the lot. The applicants' plan is compliant with respect to impervious coverage. Mr. Lipari stipulated that the applicants would comply with comments 2.4, 4.1, 4.2, 4.3, 4.5, 4.15, 4.18, 4.20, 4.21, 5.1 through 5.6 contained in the review memorandum of Petry Engineering, LLC, Borough Engineer, dated March 22, 2024. Ms. Savitz referred to Sheet C-4 of her plans and described the drainage patterns and indicated soil tests have been performed and are favorable.

Danielle Federico, Esq. of Chiesa, Shabinian & Giantomasi, PC appeared on behalf of Denis and Eileen Cusak, 16 Holly Lane, Essex Fells, New Jersey. She indicated her clients' engineer had reached out to the applicants and requested additional information. It was not her clients' intention to hold up the application but wants to make sure her clients' interests are protected in connection with the sewer relocation. She requested the resolution contain language that "prior to the relocation of the easement the owners of 16 Holly Lane shall be provided with notice of the intended date of the work necessary to relocate the easement and the applicants shall cooperate with the owners of 16 Holly Lane to pick a mutually convenient time for the new connection, which will temporarily cause a break in sewer and water service to 16 Holly Lane and, prior to the issuance of a permit for the relocation of the easement, plans detailing said relocation shall be provided to the owners of 16 Holly Lane for review and approval by a New Jersey licensed engineer. In the event said engineer does not approve the proposed relocation plans for the easement and a dispute arises with the applicants regarding same which cannot be amicably resolved, the dispute shall be resolved in the sole discretion of the Essex Fells zoning Board Engineer holding office at that time. If the relocation of the easement requires work or parts to be replaced upon the 16 Holly Lane, such labor and expense shall be solely born by the applicants." A discussion ensued between the Board, Mr. Lipari and Ms. Federico as to language to be included in any condition of approval.

The matter was opened to the public and no one wished to be heard. Mr. Lipari noted the applicants had gone through a lot bringing forth this application which has been substantially revised and requested the Board act favorably upon the application. Chairman Candido noted this was a complicated application and complimented the applicants on reacting to the Board's concerns. Acting Secretary Shearin noted the applicants have done a lot of work to answer the Board's concerns which was reiterated by Board Members Jolda and Bate. Board Member D'Avella noted the changes were significant, substantial and well received. Board Member Kovacs reiterated the applicants' team listened to the Board's concerns. Board Member Semaya noted this is a big property and impacts from the development would be felt but stated she was in favor of the application.

A motion made by Board Member D'Avella, seconded by Acting Secretary Shearin to grant the requested variances (a) to permit slope disturbance of 49.8% for slopes between 20 and 24.9% where a maximum of 33.3% is allowed; (b) to permit slope disturbance of 32.5% for slopes greater than 25% where a maximum of 0% is allowed; (c) to permit maximum encroachment of uncovered steps of 5.6 feet where a maximum of 5 feet is allowed; (d) to permit solid retaining

walls in the front yard and (e) to permit driveway curb openings of 21.7 feet and 23.7 feet where between 12 and 15 feet are allowed subject to the following conditions: (1) compliance with an Order Imposing Scarce Resource Restraint; (2) compliance with comments 2.4, 4.1, 4.2, 4.3, 4.5, 4.15, 4.18, 4.20, 4.21, 5.1 through 5.6 contained in the review memorandum of Petry Engineering, LLC, Borough Engineer, dated March 22, 2024 except with respect to comment 5.6 the relocation of the water and sewer line shall be at applicants' cost and prior to the relocation, plans shall be submitted to the owners of 16 Holly Lane and the water and sewer shutoff affecting 16 Holly Lane shall be at a mutually agreeable time consent to which shall not be unreasonably withheld, conditioned or delayed; (3) the applicants shall be bound by all representations made on their behalf in testimony presented to the Board and (4) 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 7 – 0 (Chairman Candido, Acting Secretary Shearin and Board Members Jolda, Bate, D'Avella, Kovacs and Semaya voting in the affirmative).

There being no further business to come before the Board, on a motion made by Board Member D'Avella, seconded by Board Member Semaya, the meeting was duly adjourned at 7:50 p.m. by unanimous vote.



A. MICHAEL CANDIDO, Chairman
Zoning Board of Adjustment
April 25, 2024