

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

MINUTES OF THE MEETING OF NOVEMBER 13, 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, Oscar Bate, MJ Jolda, Chris Shearin, Allison Semaya, William Kovacs and temporary Board Members Bob Burchell and Jody James. In addition, Michael D. Sullivan, Board Attorney, was present.

On a motion made by temporary Board Member James, seconded by temporary Board Member Burchell, the minutes of the meeting of September 25, 2024 were adopted by a vote of 4 – 0 (temporary Board Members James, Burchell and Board Members Shearin and Bate voting in the affirmative). Temporary Board Members James and Burchell left the meeting.

The next matter to come before the Board was the application of Roberto Mercado, 121 Devon Road, Block 3.03, Lot 4 for an impervious coverage variance in connection with the installation of an in-ground pool. The property owner, Roberto Mercado, 121 Devon Road, Essex Fells, New Jersey was present along with Jason Werner of Everclear Pools & Spas, 144 – 146 Rossiter Avenue, Paterson, New Jersey. Mr. Werner noted that the applicant is seeking a variance for impervious coverage on the property which is undersized with a lot area of 30,000 square feet where a minimum of 31,500 square feet is required. The application has been modified a number of times including removal of a previously proposed paver patio in order to bring the application closer to conformity. The current plan provides for removal of 318 square feet of driveway. The property owner purchased the property in April and he was unaware that the home was nonconforming as to impervious coverage. The applicant seeks impervious coverage of 27.74% where a maximum of 25% is allowed. In response to a question from Board Attorney Sullivan, Mr. Werner indicated that they had received the review memorandum prepared by Petry Engineering, LLC dated October 7, 2024. The applicant stipulated they would comply with comments 4.3, 4.4, 4.8, 4.10 and 5.1 through 5.4 in the event the application is approved. Mr. Werner noted that a Cultec Chamber was proposed to be installed to address stormwater. Mr. Werner also noted that although the pool is counted towards impervious coverage it actually acts to capture water during a storm event.

Connie Mercado, 121 Devon Road, Essex Fells, New Jersey stated that in the area of the proposed pool along the southwesterly property line, there exists a mix of landscaping including pines, hydrangeas and rhododendron. The property owner stipulated that any dead or dying landscaping in this area would be replaced. The property owner also stipulated that any tree stumps or dead trees in the front of the property would be removed. Mr. Mercado noted that the people of Essex Fells have been very welcoming and he was seeking approval of the pool for his family and believed it would help his kids establish friendships.


Several board members questioned the applicant about the chronic flooding problems in that neighborhood, and their concern that this application would exacerbate those problems. Mr.

Werner referred to Sheet 01 of the engineering plans prepared by Ercolano Engineering dated June 18, 2024 revised through September 10, 2024 and identified the location of the Cultec Chamber. Mr. Wener explained that the Cultec Chamber is designed to hold excess water, and release it as the ground saturation dries. The applicant is also proposing two French drains to accommodate stormwater. Mr. Mercado stated that since he has owned the home he has not gotten any water in the basement. Mr. Werner noted that the highest point of the back yard was 2 feet above the grade of the front yard. The back yard will be regraded in the area around the Cultec Chamber to direct water. Board Attorney Sullivan noted that Mr. Petry in his report had reviewed the Cultec Chamber and stormwater management measures and that it was designed to address the increase in impervious coverage. Board Member Bate noted the pool functions as a reservoir. Mr. Werner indicated the location of the pool equipment provides sufficient distance from the generator and AC equipment. Mr. Werner confirmed the area of driveway proposed to be removed would be replaced by grass or plantings. There would also be a minimum 4-foot high fence around the pool. The applicant stipulated there would be no new above ground lighting over the pool.

The matter was opened to the public and no one wished to be heard. The Board began deliberation. Board Member Bate indicated he was in favor of the application. Board Member Kovacs stated he appreciated the removal of a portion of the driveway to reduce impervious coverage and complimented the location of the pool which makes it less visible from Devon Road. Board Member Semaya noted the Cultec Chamber will be useful in addressing stormwater management. Chairman Candido, Vice-Chairman Spellman and Board Members Shearin and Jolda indicated they were in favor of the application.

On motion made by Board Member Shearin, seconded by Vice-Chairman Spellman to approve the application for an impervious coverage variance of 27.74% subject to the following conditions: (1) compliance with comments 4.3, 4.4, 4.8, 4.10, and 5.1 through 5.4 contained in the review memorandum prepared by Petry Engineering, LLC dated October 7, 2024; (2) as stipulated by the property owner, all dead or dying landscaping in the area adjacent to the proposed pool along the southwesterly property line shall be replaced; (3) as stipulated by the property owner, any stumps or dead trees in the front of the property shall be removed; (4) as stipulated by the property owner, no new above ground lighting of the pool shall be installed; (5) the owner shall be bound by all representations made in testimony presented to the Board; (6) the owner 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, Vice-Chairman Spellman and Board Members Bate, Jolda, Shearin, Semaya and Kovacs voting in the affirmative).

There being no further business to come before the Board, on a motion made by Board Member Shearin, seconded by Board Member Semaya, the meeting was duly adjourned at 7:48 p.m. by unanimous vote.



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