

**IN THE MATTER OF  
APPLICATION NO. PB22-15  
OF PARKER BROWN & KRISTEN QUINN  
BLOCK 94 LOT 20**

**RESOLUTION GRANTING  
VARIANCE APPROVAL**

**WHEREAS, PARKER BROWN & KRISTEN QUINN**, hereinafter the "Applicant", has proposed the development of property located at 53 4<sup>th</sup> Avenue, in the Borough of Atlantic Highlands, County of Monmouth, and State of New Jersey which property is further known and designated as Block 94, Lot 20 on the Tax Map of the Borough of Atlantic Highlands; and

**WHEREAS**, the Applicant has applied to the Planning Board of the Borough of Atlantic Highlands for Variance approval to permit the construction of a fourth bedroom, new master bathroom and closet enclosing an existing side porch on the second floor along with a proposed 2-foot roof overhang over the front entry way requiring the following variance relief:

- a. Front yard setback of 13.66 feet where 20 feet is required (Section 150-29) (A) (2) (Exhibit 5-2).
- b. Side yard setback of 6.2 feet where 15 feet is required (Section 150-29) (A) (2) (Exhibit 5-2).
- c. Combined side yard setback of 16 feet where 20 feet is required (Section 150-29) (A) (2) (Exhibit 5-2).
- d. Usable floor area ratio of .47 where .40 is permitted (Section 150-29) (A) (2) (Exhibit 5-2).

The application will also retain the existing nonconforming elements as follows:

- a. Lot area of 5,000 square feet where 7,500 square feet is required.
- b. Lot frontage and width of 50 feet where 100 feet is required.
- c. Lot shape diameter of 34 feet where 50 feet is required.
- d. Building coverage of 27.90% where 25% is permitted.

The foregoing is contrary to the provisions of Chapter 150, Article V, Section 150-29 of the Development Regulations of the Borough of Atlantic Highlands; and

**WHEREAS**, the subject property is located in the R-1 Residential Zone District and single family residential homes with associated accessory structures are a permitted use in the zone; and

**WHEREAS**, the Applicant appeared before the Planning Board of the Borough of Atlantic Highlands on October 6, 2022, due Notice of said meeting having been given in accordance with New Jersey Statutes, the Open Public Meetings Act, and the Municipal Land Use Law and a quorum of the Planning Board being present the application was heard; and

**WHEREAS**, the Applicant's witnesses were sworn and the Planning Board having heard the testimony of the Applicant's witnesses and having examined the Exhibits submitted by the Applicant and having considered all of the evidence presented in favor of or in opposition to the application, the Planning Board has made the following findings of fact:

1. The Planning Board has received and reviewed the following documents, exhibits and reports:

1.1 Zoning Review of Borough Zoning Officer Michelle Clark, dated April 11, 2022, marked as Exhibit A-1 in evidence.

1.2 Variance Application of Parker Brown & Kristen Quinn, dated May 13, 2022, marked as Exhibit A-2 in evidence.

1.3 Survey prepared by Richard E. Stockton & Associates, dated December 13, 2021, marked as Exhibit A-3 in evidence.

1.4 Architectural Elevation & Floor Plans prepared by Maxine Giordano Architect, dated March 29, 2022, marked as Exhibit A-4 in evidence.

1.5 Technical Review #1 of CME Associates, dated July 15, 2022, marked as Exhibit A-5 in evidence.

1.6 Photo Board with Five 8.5 in. x 11 in. photographs of subject property, marked as Exhibit A-6 in evidence.

2. The premises in question are located at 53 4<sup>th</sup> Avenue, in the Borough of Atlantic Highlands, County of Monmouth and State of New Jersey which property is further known and designated as block 94, lot 20 on the Tax Map of the Borough of Atlantic Highlands.

3. The subject property is located in the R-1 Residential Zone District and single-family residential homes with associated accessory structures are a permitted use in the zone.

4. The subject property has approximate dimensions of 50.00 ft. x 100.00 ft. x 50.00 ft. x 100.00 ft. and is rectangular in shape with frontage on 4<sup>th</sup> Avenue. The lot has an approximate area of 5,000 square feet (0.1148 acres). It is an existing undersized lot of record and is a narrow parcel.

5. The property is presently developed with an existing two-story residential dwelling with the southwesterly portion of the residence being one story with a porch above. The property also has front and rear paver patios and sidewalks. The Applicant proposes to enclose the upper-level porch on the southwesterly side of the home and convert it to a fourth bedroom, a new master bathroom and a closet requiring the variance relief set forth previously herein.

6. The Applicant was represented by Henry F. Wolff, III, Esq. and presented the testimony of Maxine Giordano, a licensed Architect in the State of New Jersey, Parker Brown, property owner and John Taikina, a licensed professional Planner in the State of New Jersey. The Applicant presented the professional credentials of Ms. Giordano and Mr. Taikina and accepted them as experts in their respective fields of architecture and planning. Ms. Giordano testified as to the existing conditions and the proposed improvements to the home and advised the Planning Board that the proposed attic area will be for storage only with a "pull-down" stair to access it. In addition, the basement will be used for utilities only and is not a finished area. She also testified that the proposed improvements will be above the existing footprint on the existing foundation and that there will be no increase with respect to roof runoff and there will be no change to drainage patterns so that there will be di minimis, if any, impacts on stormwater management, as she also advised the Board that the existing landscaping on the property will be retained.

7. The property owner, Parker Brown, provided testimony that there is no off-street parking for the subject property and that they have had no problems using the available street parking along 4<sup>th</sup> Avenue. The Planning Board notes that the addition of the proposed bedroom is not increasing parking requirements pursuant to the Residential Site Improvement Standards (RSIS). Thus, the grant of variance approval will not increase the parking demand for this property.

8. Mr. Taikina testified that he had reviewed the application ordinance and the master plan and was familiar with the property with respect to the floor area ratio variance. He opined that the standard to be examined by the Planning Board is whether the lot can accommodate the additional floor area in question. He opined that the proposal is a modest addition which will be above an existing first floor and will not increase the building footprint. The bulk variances for the front, side and combined side yard setbacks already exist with respect to the first floor of the building. It is the addition of the second floor over a portion of the dwelling that causes the required variance relief. He opined that the impact is di minimis. He further opined that the enclosure of the existing second floor porch will actually result in less impact upon the neighboring property as it will eliminate noise that would come from the use of the open porch. He further opined that this modest sized 2,217 square foot home is architecturally consistent and compatible with homes in the neighborhood and will not result in any negative impacts upon the surrounding properties or the streetscape. He further opined that the grant of the requested variance relief will promote the purposes of municipal land use law set forth in N.J.S.A. 40:55D-2.i.j and m. He opined that the proposed addition will result in an improved architectural appearance which is consistent with the testimony of Ms. Giordano who testified that the new roof line will be an enhancement and consistent architecturally with the other properties along 4<sup>th</sup> Avenue thus promoting a desirable and visual environment and good civic design and arrangement. He further opined that the grant of variance relief would promote conservation of the historic character of this District and would provide for a more efficient use of the subject property.

9. The Planning Board finds that the Applicant has satisfied the positive criteria for the grant of the requested variance relief. The Planning Board notes that this is a narrow parcel and that, coupled with the existing location of the residence, makes the proposed addition the only reasonable location for this additional bedroom amenity. Therefore, the Planning Board finds that an extraordinary and exceptional situation uniquely affecting this specific piece of property and the structures lawfully existing thereon exists

such that the strict application of the Development Regulations of the Borough of Atlantic Highlands would result in peculiar and exceptional practical difficulties to and exceptional and undue hardship upon the Applicant as it would prevent the Applicant from having these modest additions (second floor addition and two foot front overhang). The Planning Board further agrees with the Applicants Planner that the grant of requested variance relief would promote the purposes of the Municipal Land Use Law including a desirable visual environment, preserving the historic character of the area and providing for the most efficient use of land. The Planning Board finds that the Applicant has satisfied the positive criteria for both a "C-1" a hardship variance as well as a "C-2" planning variance.

10. The Planning Board further finds that the Applicant has satisfied the negative criteria for the grant of the requested variance relief. The Planning Board finds that the grant of the requested variance relief will not result in any substantial detriment to the public good. The Planning Board finds that the proposed addition is consistent with other properties in the zone, it is being placed over the existing foundation, will result in less impact by enclosing the existing porch and will be architecturally compatible with the neighborhood and the streetscape.

11. The Planning Board further finds that the grant of the requested variance relief will not result in any substantial impairment of the zone plan and zoning ordinance. The setback requirements of the ordinance are designed to ensure that structures are not placed so close to property lines so as to have an overly imposing appearance or to appear excessive in size due to close proximity. In this case there are already two-story improvements on the property which result in these deviations. The new additions will not exacerbate those conditions as they will retain the same setbacks as already exist. Consequently, they are di minimis in nature and do not violate the purposes for which the ordinances were adopted.

12. With regard to the floor area ratio, the Planning Board finds that the subject property can accommodate these additions. The residence will continue to use as a single-family home and will not increase the required parking demand. The intensity of use will continue as it is currently.

13. As a result of all of the foregoing, the Planning Board finds that the Applicant has satisfied the positive and negative criteria for the grant of the requested Variance relief and that the Variances can and should be granted at this time.

14. The Planning Board further finds that all property owners within 200 feet of the premises in question were given proper Notice of the hearing of this application and were provided with an opportunity present evidence in favor of, or in opposition to, the appeal.

**NOW THEREFORE, BE IT RESOLVED** by the Planning Board of the Borough of Atlantic Highlands on this 1st day of December 2022, that the Application of **PARKER BROWN & KRISTEN QUINN** be and is hereby approved which approval is expressly conditioned upon compliance with the following terms and conditions:

**GENERAL CONDITIONS –**

- 1) This approval is subject to the accuracy and completeness of the submissions, statements, exhibits and other testimony filed with, or offered to, the Board in connection with this application, all of which are incorporated herein by reference and specifically relied upon by the Board in granting this approval. This condition shall be a continuing condition subsequent which shall be deemed satisfied unless and until the Board determines (on Notice to the Applicant) that a breach hereof has occurred.
- 2) In the event that any documents require execution in connection with the within approval, such documents will not be released until all of the conditions of this approval have been satisfied unless otherwise expressly noted.
- 3) No taxes or assessments for local improvements shall be due or delinquent on the subject property.
- 4) The Applicant shall pay to the municipality any and all sums outstanding for fees incurred by the municipality for services rendered by the municipality's professionals for review of the application for development, review and preparation of documents, inspections of improvement and other

purposes authorized by the Municipal Land Use Law. The Applicant shall provide such further escrow deposits with the municipality as are necessary to fund anticipated continuing municipal expenses for such professional services, if any, in connection with the Application for Development as may be authorized by the Municipal Land Use Law.

5) The Applicant shall furnish such Performance Guarantees, Temporary Certificate of Occupancy Guarantees, Safety and Stabilization Guarantees, Maintenance Guarantees, Inspection Fees and such other Guarantees or fees as may be required pursuant to the Municipal Land Use Law and the Ordinances of this Municipality for the purpose of assuring the installation and maintenance of on-tract/off-tract and private site improvements.

6) No site work shall be commenced or plans signed or released or any work performed with respect to this approval until such time as all conditions of the approval have been satisfied or otherwise waived by the Board.

7) Any and all notes, drawings or other information contained on any approved plans shall be conditions of this approval.

8) Nothing herein shall excuse compliance by the Applicant with any and all other requirements of this municipality or any other governmental entity. This approval is conditioned upon compliance by the Applicant with all Ordinances and Regulations of this Municipality.

9) In the event any de minimis exception has been granted from the Residential Site Improvement Standards Regulations in connection with this application, a copy of this resolution shall be sent to the New Jersey Department of Community Affairs, Division of Codes and Standards, 101 South Board Street, CN 802, Trenton, New Jersey 08625-0802 within thirty (30) days of the date hereof. Said copy of this resolution shall be clearly marked on its face with the words "SITE IMPROVEMENT EXCEPTIONS".

10) In the event that the Applicant and the approving authority have agreed that exceeding a standard of the Residential Site Improvement Standards is desirable under the specific

circumstances of the proposed development, such Agreement to Exceed RSIS Standards shall be placed, in writing, by the developer and transmitted forthwith to the New Jersey Department of Community Affairs, Division of Codes and Standards, 101 South Broad Street, CN 802, Trenton, New Jersey 08625-0802.

11) The Applicant shall comply with the contribution requirements of the Municipal Affordable Housing Fund as applicable to this application.

12) In the event that this Application involves a subdivision or site plan, such subdivision or site plan shall expire at the conclusion of the period of protection from zoning changes provided for in N.J.S.A. 40:55D-49 or 40:55D-52.a, as applicable, and in no event shall extend beyond the fifth anniversary of the date of adoption of this resolution.

13) In the event that this approval involves the approval of a subdivision, the Applicant shall provide to the Board Engineer and attorney for review and approval, deeds for each of the lots created and shall file such deeds simultaneously with the recording of any subdivision plat.

14) All special conditions shall be included as notes on the plans.

15) All general and special conditions set forth in this Resolution shall be placed as notes on the approved plans as a Resolution compliance requirement.

16) The Applicant shall comply with the requirements of the Municipal Ordinances with respect to its Affordable Housing obligation by either providing the required affordable housing on-site, providing affordable housing off-site or making a contribution of an Affordable Housing fee pursuant to the applicable Municipal Ordinances. This approval is subject to the Applicant paying all applicable fees, including any fee due and owing to the Municipality's Affordable Housing Trust Fund.



Affordable units in inclusionary developments shall have at least 50% low income units (of which at least 13% are very low income). The remaining affordable units shall be moderate income units. The bedroom distribution for affordable units shall be a minimum of 20% three-bedroom units and a maximum of 20% one- bedroom units.

17) This Resolution does not constitute a permit for the construction of the approved improvements. The Applicant shall be responsible for obtaining any and all permits and approvals required prior to the commencement of any development activities including, but not limited to, N.J.D.O.T., N.J.D.E.P., Monmouth County Planning Board, Freehold Soil Conservation District, Regional and/or Municipal Utility Authority approval, in addition to any and all building and construction permits, required by the Municipality. All work performed shall be in accordance with, and shall not deviate from, the approved plans and all applicable Federal, State, County and Local laws, rules and regulations.

18) As an essential and non-severable condition of this approval, the Applicant shall comply with all Mount Laurel obligations and shall comply with the Municipality's approved Housing Element and Fair Share Plan including but not limited to, any associated implementing Ordinances.

19) The scope of the review of this application is necessarily limited to planning, zoning and land use review of the site as compared to the requirements of the Municipality. The grant of this approval and of any permit or approval in connection therewith shall not constitute a representation, guarantee or warranty of any kind or nature by the Municipality or by any Municipal official or employee thereof with respect to the practicability or safety of any structure, use or other plan proposed and shall create no liability upon or cause of action against the Board, the Municipality or any officials or employees of the Municipality for any damage or injury that result from the construction of the improvements for which this Zoning approval is granted.

**SPECIAL CONDITIONS –**

- 1) The approvals granted in connection with this application are as follows:
  - a. Front yard setback of 13.66 feet where 20 feet is required (Section 150-29) (A) (2) (Exhibit 5-2).
  - b. Side yard setback of 6.2 feet where 15 feet is required (Section 150-29) (A) (2) (Exhibit 5-2).

- c. Combined side yard setback of 16 feet where 20 feet is required (Section 150-29) (A) (2) (Exhibit 5-2).
- d. Usable floor area ration of .47 where .40 is permitted (Section 150-29) (A) (2) (Exhibit 5-2).

**BE IT FURTHER RESOLVED** that nothing herein shall excuse compliance by the Applicant with any and all other requirements of this Municipality or any other governmental entity.

**BE IT FURTHER RESOLVED** that a written copy of this Resolution, certified by the Secretary of the Planning Board to be a true copy, be forwarded to the Applicant, the Code Enforcement Official of the Borough of Atlantic Highlands, and the Construction Code Official of the Borough of Atlantic Highlands. A written copy of the certified Resolution shall also be filed in the office of the Administrative Officer of the municipality, which copy shall be made available to any interested party and available for public inspection during normal business hours.

**BE IT FURTHER RESOLVED** that a proper notice of this decision be published once in the official newspaper of the municipality or in a newspaper in general circulation within the Borough.

OFFERED BY: MR. KRUPINSKI  
SECONDED BY: MR. NEFF

ROLL CALL:

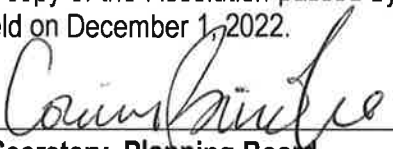
YES: HAWLEY, McGOLDRICK, NEFF, KRUPINSKI, CROWTHER, KURDES,  
MAJEWSKI  
NO: NONE  
ABSTAIN: NONE  
ABSENT: ZUZULOCK, CACCMO, JOSKO, BERTH



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**Chairperson, Planning Board  
Borough of Atlantic Highlands**

I certify that the above is a true and exact copy of the Resolution passed by the Planning Board of the Borough of Atlantic Highlands at its meeting held on December 1, 2022.



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**Secretary, Planning Board  
Borough of Atlantic Highlands**