



**Borough of Atlantic Highlands Planning Board Meeting Minutes
Borough Hall, 100 First Ave., Atlantic Highlands, NJ
November 2, 2023**

WORKSHOP MEETING

Roll Call:

PRESENT: Councilman Dougherty, Mr. Hawley, Mr. Josko, Mr. Krupinski, Ms. Majewski, Vice Chair Neff, Chair McGoldrick, Dr. Zuzulock, Ms. Walter

ABSENT: Mr. Boms, Mr. Caccamo, Mr. Kurdes, Mr. Berth

Also Present: Board Attorney Michael Steib, Esq., Board Engineer Douglas Rohmeyer, Lori Hohenleitner to operate the Zoom technology for those seeking to attend remotely, and Board Secretary Nancy Tran.

Chair McGoldrick called the meeting to order at 7:00pm and stated that the meeting is being held in compliance with the Open Public Meetings Act. Chair McGoldrick stated that notice of this meeting has been transmitted to the Asbury Park Press and the Two River Times, continuously posted in the Borough Hall on a bulletin board reserved for such announcements and filed in the office of the Municipal Clerk of Atlantic Highlands. He stated that formal action would be taken.

Public Comment: Mark Fisher, asked about parking relating to development at 68 First Ave. Mr. Rohmeyer asked that Mr. Fisher email him for follow up.

Litigation: Mr. Steib stated that there were no pending litigation.

Other Business:

Subcommittee Formation for Ordinance Review – Chair McGoldrick summarized the reason for the formation of the subcommittee and asked for volunteers among the Board members. Mr. Krupinski, Ms. Majewski, and Dr. Zuzulock volunteered. Chair McGoldrick asked the subcommittee for their plan and possible meeting dates for the next Planning Board meeting. Councilmember Dougherty offered to talk with Ms. Apte, consultant planner for the Borough. Chair McGoldrick thanked the subcommittee members and Councilmember Dougherty.

Workshop Adjournment

Vice Chair Neff made a motion to adjourn workshop and Ms. Majewski seconded. All were in favor. Workshop adjourned at 7:06pm.

REGULAR MEETING

Roll Call:

PRESENT: Councilman Dougherty, Mr. Hawley, Mr. Josko, Mr. Krupinski, Ms. Majewski, Vice Chair Neff, Chair McGoldrick, Dr. Zuzulock, Ms. Walter

ABSENT: Mr. Boms, Mr. Caccamo, Mr. Kurdes, Mr. Berth

Also Present: Board Attorney Michael Steib, Esq., Board Engineer Douglas Rohmeyer, Lori Hohenleitner to operate the Zoom technology for those seeking to attend remotely, and Board Secretary Nancy Tran.

Approval of October 5, 2023 Meeting Minutes

Motion to approve: Mr. Josko

Second: Mr. Krupinski

Ayes: Mr. Caccamo, Councilman Dougherty, Mr. Josko, Mr. Krupinski, Ms. Majewski, Chair McGoldrick, Mr. Kurdes, Ms. Walter

Nays: None

Abstain: Dr. Zuzulock

Ineligible: Mr. Hawley, Vice Chair Neff, Dr. Zuzulock

Absent: Mr. Boms, Mr. Caccamo, Mr. Kurdes, Mr. Berth

Approval of Attorney Vouchers

Motion to approve: Ms. Majewski

Second: Mr. Krupinski

Ayes: Mr. Caccamo, Councilman Dougherty, Mr. Hawley, Mr. Josko, Mr. Krupinski, Ms. Majewski, Vice Chair Neff, Chair McGoldrick, Dr. Zuzulock

Nays: None

Abstain: None

Absent: Mr. Boms, Mr. Caccamo, Mr. Kurdes, Mr. Berth

Consistency Review: HBD and CBD Ordinance 15-2023

Councilmember Dougherty gave a brief summary of introduced Ordinance 15-2023, noting that there will be a public hearing at the November 20, 2023 Council meeting. He highlighted some changes from the draft version that was inspired by the Planning Board members' input.

Ron Reinerstsen was sworn in as the Borough's consultant planner and gave an overview of the points from O-15-2023 that he believed were consistent with the Master Plan.

Ms. Majewski stated that she felt heard and that the Ordinance was well intended but restated that it could be better to stay focused on density issue and leave out the design element. Design does need to be addressed but perhaps separately. Chair McGoldrick noted that the consistency review is the focus and that it is consistent. A deeper dive of other issues can be done in the future. He encouraged Ms. Majewski to voice her thoughts that the public hearing at the November 20th Council meeting. Mr. Krupinski thought that the design element was a good step. Councilmember Dougherty appreciated the Board's input and thanked Mr. Reinertsen.

Motion to approve Consistency Review: Ms. Majewski

Second: Mr. Krupinski

Ayes: Councilmember Dougherty, Mr. Hawley, Mr. Josko, Mr. Krupinski, Ms. Majewski, Dr. Zuzulock, Ms. Walter, Vice Chair Neff, Chair McGoldrick

Nays: None

Abstain: None

Absent: Mr. Boms, Mr. Caccamo, Mr. Kurdes, Mr. Berth

**Memorializing Resolution PB23-05: Sohl – 64 Prospect Cir., B74 L7 – Addition
IN THE MATTER OF
APPLICATION NO. PB 23-05
OF MATT & SARA SOHL
BLOCK 74 LOT 7**

**RESOLUTION GRANTING
VARIANCE APPROVAL**

WHEREAS, MATT & SARA SOHL, hereinafter the "Applicant", has proposed the development of property located at 64 Prospect Circle, in the Borough of Atlantic Highlands, County of Monmouth, and State of New Jersey which property is further known and designated as Block 74, Lot 7 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 one-story addition to an existing dwelling along with a covered porch, new driveway and retaining wall requiring Variance relief for front yard setback of 20.95 feet where 25 feet is required (Section 150-29 (A)(2)(Exhibit 5-2)) and building coverage of 16.9% where 15% is permitted (Section 150-29 (A)(2)(Exhibit 5-2)) along with lot coverage in a steep slope area of 3,031.99 square feet where 2,767.81 square feet is permitted (Section 150-78.E). In addition, the following existing nonconformities will remain, lot area of 10,072.74 square feet where 15,000 square feet is required, lot frontage and width of 96.86 feet where 100 feet is required, side yard setback of 4.23 feet where 10 feet is required, side yard setback for accessory structure of 0.3 feet where 10 feet is required and rear yard setback for accessory structures of -35.5 feet where 5 feet is required. The foregoing is contrary to the provisions of the Development Regulations of the Borough of Atlantic Highlands; and

WHEREAS, the subject property is located in the R-2 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 5, 2023, 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 Variance Application of Matthew & Sara Sohl, undated, marked as Exhibit A-1 in evidence.
 - 1.2 Survey prepared by Najarian Associates, dated June 8, 2022, marked as Exhibit A-2 in evidence.
 - 1.3 Proposed Addition Plans, prepared by Insite Engineering with Steep Slope Analysis, dated June 21, 2023, marked as Exhibit A-3 in evidence.
 - 1.4 Architectural Elevation Floor Plans, prepared by Parnagian Architects, dated June 28, 2023, marked as Exhibit A-4 in evidence.
 - 1.5 Review #1 of CME Associates, dated September 13, 2023, marked as Exhibit A-5 in evidence.
 - 1.6 Four Pages with Photographs, Floor Plans & Diagrams, marked as Exhibit A-6 a-d in evidence.

1.7 Colorized Site Rendering, prepared by Insite Engineering, dated September 9, 2023, marked as Exhibit A-7 in evidence.

1.8 Photoboard with 4 Photographs of Subject Property, marked as Exhibit A-8 in evidence.

2. The premises in question are located at 64 Prospect Avenue, in the Borough of Atlantic Highlands, County of Monmouth and State of New Jersey, which property is further known and designated as Block 74, Lot 7 on the Tax Map of the Borough of Atlantic Highlands.

3. The subject property is located in the R-2 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 109.95 ft. x 135.00 ft. x 39.27 ft. x 135.00 ft. and is triangular in shape with an approximate area of 10,072.74 square feet (0.25 acres). The property is presently developed with an existing one-story residential dwelling with driveway, deck with greenhouse area, walkways, a shed and firepit area. The Planning Board notes that the rear walkway, shed and firepit are outside of the property lines of the subject parcel and makes no findings with respect to those elements.

5. The Applicant presented the testimony of Brian Parnagian, a licensed Architect in the State of New Jersey whose credentials were accepted by the Board. He testified that the home was constructed in 1973 as a "raised ranch". He testified that the property is in need of substantial updating and that the principal proposal before the Board is to expand the approximately 400 square feet of living space for a primary suite for the owners. That addition will be placed over the existing garage and replace the existing greenhouse area on a deck. There is an additional deviation of front setback of 1.05 feet from 22 feet to 20.95 feet where 25 feet is required. That is due to the curvature along the frontage of the property and continuing the addition along the plane of the front residence wall. The Applicant advised that they have not performed a soil analysis regarding the existing foundation to confirm that it can accommodate the added weight. The Applicant agreed to provide a soil analysis for that purpose as a condition of approval.

6. The Applicant also presented the testimony of Douglas Clelland, a licensed professional Engineer in the State of New Jersey whose credentials were accepted by the Planning Board. He reviewed the various preexisting nonconforming conditions. He noted that the improvements will eliminate one existing nonconforming condition for total floor area, thus making the building more conforming in that respect. He further testified that the actual steep slope lot coverage will be 2,904 square feet where 2,776 square feet is permitted for a slight excess of 128 square feet. He further noted that the undersized nature of the lot is what causes the necessity for Variance. He also noted that the total impervious surface for the lot will be 30.10% where 40% is permitted, thus demonstrating that the lot will not be overdeveloped.

Mr. Clelland further advised the Board that the property presently has three bedrooms existing and that the proposed addition will not increase the number of bedrooms. He further testified that the minimal increase will have no detrimental stormwater impacts as all stormwater is being directed to the street.

7. The Applicant agreed that in the event of tree removal, a tree removal permit will be secured from the Borough. The Applicant also agreed to provide retaining wall onsite calculations and weep holes on the retaining walls to ensure its stability. The Applicant further agreed to comply with Sections 163, 150-89 and 150-52 of the Ordinance.

8. The Applicant also presented the testimony of Barbara Ehlen, a licensed professional Planner in the State of New Jersey who noted that the proposed use is a permitted use in the zone and that there is a hardship with respect to this property due to its unusual shape, coupled with its undersized area. She noted that the Borough Master Plan encourages reinvestment in neighborhoods and opined that the Variances can be granted under a hardship standard noting that the front yard setback deviation is due to the existing building line and the road curvature. She further opined that the building coverage and steep slope lot coverage deviations are due to the undersized lot. Thus, she concluded 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 difficulty to and exceptional and undue hardship upon the Applicant as it would prevent the Applicant from making these improvements to the home which will bring it into closer compliance with the size of homes anticipated in the zone. She further opined that the location of the proposed improvements makes sense in the context of this existing residence and its unique shape and configuration. Thus, she opined that the grant of the Variances herein will promote the purposes of the Municipal Land Use Law by providing sufficient space in an appropriate location for this residential use. Pursuant to the provisions of N.J.S.A. 40:55 d-2. g. the Planning Board finds that this property is unique property due to the conditions set forth previously herein which demonstrate satisfaction of the positive criteria for the grant of the requested Variance relief.

9. The Planning Board further finds that the grant of the requested Variance relief will not result in any substantial detriment to the public good. It will result in a residence in closer conformance with the size of residences anticipated in the zone. The Planning Board finds that the additional 1.05-foot deviation from front yard setback is di minimis and will have no substantial impact upon the streetscape or the adjacent properties. Similarly, the building coverage excess, and steep slope lot coverage excess are di minimis as well and will not have substantial negative impacts on the property provided that the Applicant complies with the conditions with this approval to ensure that the improvements will be properly and safely completed.

10. The Planning Board further finds that the grant of the requested Variance relief will not substantially impair the intent and purpose of the Zone Plan and Zoning Ordinance. As noted previously herein, the proposed improvements will result in a home more conforming to the requirements of the zone and with other residences in the area and the di minimis deviations requested are insubstantial and do not offend the zone scheme in this area.

The Planning Board notes the aerial photograph Exhibits marked as Exhibit A-7 and A-8 which demonstrate that the the proposed improvements will bring the subject property into closer conformance with existing development around it and will not be inconsistent with the zone scheme.

11. 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.

12. The Planning Board further finds that all property owners within 200 ft. of the premises in question were given proper notice of the hearing of this application and were provided with an opportunity to present testimony in favor of, or in opposition to, the appeal. One neighbor did appear who supported the application as being a positive improvement to the neighborhood.

NOW THEREFORE, BE IT RESOLVED by the Planning Board of the Borough of Atlantic Highlands on this 9th day of November, 2023 that the Application of **MATT & SARA SOHL**, 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 Applicant shall provide a soils analysis for approval by the Planning Board Engineer prior to the issuance of construction permits.
- 2) The Applicant shall comply with the Borough Ordinance and obtain any required tree removal permits prior to removal of trees.
- 3) The Applicant shall provide retaining wall design calculations with weep holes for approval by the Planning Board Engineer prior to the issuance of permits.
- 4) The Applicant shall comply with Section 163 of the Borough of Atlantic Highland Development Regulations.
- 5) The Applicant shall comply with Section 150-89 of the Borough of Atlantic Highland Development Regulations.
- 6) The Applicant shall comply with Section 150-52 of the Borough of Atlantic Highland Development Regulations Ordinance.

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 should the Applicant not exercise this variance within the required time period pursuant to Chapter 150, Article III, Section 150-9.J. these variances will expire.

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.

Motion to approve: Mr. Krupinski

Second: Ms. Majewski

Ayes: Councilmember Dougherty, Mr. Hawley, Mr. Josko, Mr. Krupinski, Ms. Majewski, Dr. Zuzulock, Ms. Walter, Vice Chair Neff, Chair McGoldrick

Nays: None

Abstain: None

Absent: Mr. Boms, Mr. Caccamo, Mr. Kurdes, Mr. Berth

Memorializing Resolution PB23-01: Kennedy-Wright – 3 Beverout Pl., B6 L1.02 – Addition and Pool

**IN THE MATTER OF
APPLICATION NO. PB23-01
OF KERRI KENNEDY & PAUL WRIGHT
BLOCK 6 LOT 1.02**

**RESOLUTION GRANTING
VARIANCE APPROVAL**

WHEREAS, KERRI KENNEDY & PAUL WRIGHT, hereinafter the "Applicant", has proposed the development of property located at 3 Beverout Place, in the Borough of Atlantic Highlands, County of Monmouth, and State of New Jersey which property is further known and designated as Block 6, Lot 1.02 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 second story addition, new inground swimming pool, enlarged rear patio and new front walkway requiring Variances for the following:

1. Accessory side yard setback of pool patio of 6.56 feet where 10 feet is required (Section 150-29.A (2) (Exhibit 5-2)).
2. Building coverage of 18.81% where 12% is permitted (Section 150-29.A (2) (Exhibit 5-2)).
3. Lot coverage of 38.69% where 30% is permitted (Section 150-29.A (2) (Exhibit 5-2)).
4. Floor area ratio of 0.302 where 0.175 is permitted (Section 150-29.A (2) (Exhibit 5-2)).
5. Lot coverage and steep slope area of 4,579.1 square feet where 3,334 square feet is permitted (Section 150-78.E).
6. Impervious coverage of 4,579.1 square feet where 3,884 square feet is permitted (Section 150-78.E).

The property will also continue the following existing nonconforming elements:

1. Lot area 11,836 square feet where 30,000 square feet is required (Section 150-29.A (2) (Exhibit 5-2)).
2. Lot shape diameter of 62.01 feet where 65 feet is required (Section 150-29.A (2) (Exhibit 5-2)).
3. Side yard setback of 10.1 feet where 15 feet is required (Section 150-29.A (2) (Exhibit 5-2)).
4. Combined side yard setback of 24.12 feet where 35 feet is required (Section 150-29.A (2) (Exhibit 5-2)).
5. Rear yard setback of 23.1 feet where 30 feet is required (Section 150-29.A (2) (Exhibit 5-2)); and

WHEREAS, the subject property is located in the R-3 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 2, 2023, 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 Application for Variance of Kerri Kennedy & Paul Wright, dated January 9, 2023, marked as Exhibit A-1 in evidence.

1.2 Addendum to Application, undated, marked as Exhibit A-2 in evidence.

1.3 Location & Topographic Survey prepared by Land Control Services, LLC, dated March 17, 2021, marked as Exhibit A-3 in evidence.

1.4 Development Plan Checklist, dated January 9, 2023, marked as Exhibit A-4 in evidence.

1.5 Zoning Review of Zoning Officer Michelle Clark, dated March 15, 2021, marked as Exhibit A-5 in evidence.

1.6 Plot Plan/Steep Slope Analysis, prepared by Insite Engineering, dated December 9, 2022, marked as Exhibit A-6 in evidence.

1.7 Site Plan with Architectural Elevation & Floor Plans, prepared by Anthony Busch, Jr., Architect, dated May 8, 2021 submitted May 12, 2022, marked as Exhibit A-7 in evidence.

1.8 Review #1 of CME Associates, dated March 6, 2023, marked as Exhibit A-8 in evidence.

1.9 Correspondence from Insite Engineering, dated July 5, 2023, marked as Exhibit A-9 in evidence.

1.10 Plot Plan and Construction Plan, prepared by Insite Engineering, dated December 9, 2022 revised June 30, 2023, marked as Exhibit A-10 in evidence.

1.11 Review #2 of CME Associates, dated September 12, 2023, marked as Exhibit A-11 in evidence.

1.12 Series of 6 Site Photos with front, side & rear views of subject property, marked as Exhibit A-12 in evidence.

1.13 Site Rendering in Color, prepared by Insite Engineering, dated September 9, 2023, marked as Exhibit A-13 in evidence.

2. The premises in question are located at 3 Beverout Place, in the Borough of Atlantic Highlands, County of Monmouth and State of New Jersey which property is further known and designated as block 6, lot 1.02 on the Tax Map of the Borough of Atlantic Highlands.

3. The subject property is located in the R-13 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 101.85 ft. x 123.56 ft. x 100.51 ft. x 112.45 ft. and is a quadrilateral shaped property with an area of 11,836 square feet (0.2717

acres). The lot is a substantially undersized parcel resulting in a significant number of existing nonconforming elements. The property is presently developed with a one story residential dwelling with attached garage, a patio, decks and associated driveways and walkways. The Applicants were represented by Mark Aikins, Esq. who presented the testimony of Anthony Busch, a licensed Architect in the State of New Jersey, Douglas Clelland, a licensed professional Engineer in the State of New Jersey and Barbara Ehlen, a licensed professional Planner in the State of New Jersey. They presented testimony that the Applicant desires to construct a second story addition, a new inground swimming pool, an enlarged rear patio and a new front walkway. Mr. Busch described the existing conditions and proposed improvements. He noted that the residence currently has three bedrooms and will have the same number of bedrooms when the addition is completed. With a minor exception of the bump out at the entrance the proposed addition will be entirely over the existing building footprint. He noted that the proposed improvements will provide adequate parking for vehicles in accordance with RSIS requirements.

5. Mr. Clelland testified that the required Variance relief is principally a result of the undersized lot area which cannot accommodate a reasonably sized home without Variance relief. He noted that the existing nonconforming elements along with the request for Variance relief are driven by the undersized nature of the lot. He further noted that the Variances needed to develop the subject property are the result of the undersized lot condition coupled with the location of the existing structures on the property. He further noted that the deviation for steep slope lot coverage is largely due to the deck structure that does not significantly impact the slope area. He testified that proper stormwater was handled by sheet flow from the roof across the property. The proposed improvements will provide for leader downspouts directing water to a sump drain. Mr. Clelland opined that the proposed improvements will have minimal steep slope disturbance. He also noted that the pool location has been placed in the only area possible due to the existing septic system, pump tank, seepage pit and positioning of the residence. He noted that front downspouts will be added to accommodate overflows. He advised the Board that he had not performed a geotechnical study as the stormwater impacts of the proposed improvements do not impact soils. Nevertheless, the Applicant agreed to provide a soils report and soil borings along with a geotechnical report for review by the board's Engineers, CME Associates, as may be required. He further addressed review number two of CME Associates particularly addressing paragraph eight subparagraphs "d" through "t" under section b, He confirmed that the drawing will comply with the technical zoning requirements for maximum height and number of stories. As to paragraph "e", he confirmed that 50% of the basement was included in the FAR calculations. As to paragraph "f", he clarified that there will be only three bedrooms and noted that as a condition of approval one of the first-floor bedrooms will have a closet removed and will be utilized as an office only. With respect to paragraph "g", he reviewed the impacts for stormwater discharge and found that the proposal improves the existing runoff conditions directing pool and runoff to the right-of-way. As to paragraph "h", he confirmed that the slope will maintain its stability. With respect to paragraph "i", he described the proposed channel drain along the perimeter of the pool patio to collect surface runoff. With respect to paragraph "j", the Applicant confirmed that there will be no removal of trees over 6-inch caliber. As to paragraph "k", he noted the conditions previously referenced herein that the proposed pool cannot be located elsewhere on the property. With respect to paragraph "l", the Applicant agreed to screen the pool equipment. With respect to paragraph "m", he confirmed adequate distancing between the pool and existing septic system and agreed to provide additional information verifying that the pool distance from the septic systems on lots 2 and 2.01 also are adequately spaced so as

not to have adverse impacts upon the septic system. As to paragraph “n”, he noted that the fencing will comply with all codes and agreed to comply with those matters referenced in paragraphs o, p, q, r, s & t.

6. Planner, Barbara Ehlen testified that the subject property is the only home facing Beverout Place. The sidelines of the subject property actually function as rear lot lines for adjacent lots 1.01 and 1.03 as those lots are oriented toward East Highland Avenue and Ocean Boulevard frontages respectively.

7. Ms. Ehlen opined that the proposed improvements meet the standards of the Coventry Square case and that the floor area resulting from these additions will not result in the property having an appearance of being a “mcmansion” and that the home, as a three bedroom residence, will continue to be a three bedroom residence and therefore the property can accommodate the additional floor area ratio. She testified that essentially, the Variances required are driven by the undersized nature of the lot coupled with the location of the existing improvements and that a hardship is associated with this property due to its conditions. She further testified that it is her opinion that the proposed improvements do promote the purposes of the Municipal Land Use Law and particularly N.J.S.A. 40:55D-2.g. by providing sufficient space in an appropriate location for this residential use.

8. Ms. Ehlen further testified that the proposed improvements will not result in any substantial detriment to the public good. Instead she found that it will result in a home consistent in size and scope with other homes in the area.

9. 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.

10. 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 to present testimony in support of, or in opposition to the appeal. Two neighbors did appear who supported the application as being a positive improvement to the area.

NOW THEREFORE, BE IT RESOLVED by the Planning Board of the Borough of Atlantic Highlands on this 2nd day of November, 2023, that the Application of **KERRI KENNEDY & PAUL WRIGHT** 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 will 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 Applicant shall add front downspout overflows to the plans.
2. Applicant shall provide a soils report and soil borings to the Planning Board Engineer for approval prior to the issuance of construction permits.
3. The Applicant shall provide a geotechnical report for review and approval by the Planning Board Engineer prior to the issuance of permits.
4. The Applicant will be removing the closet in the first-floor office so that it will not be considered as a bedroom to retain the three bedroom home.
5. The Applicant shall verify the distance from the proposed pool to the septic systems on lots 2 and 2.01.

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.

Motion to approve: Mr. Hawley

Second: Mr. Josko

Ayes: Mr. Hawley, Mr. Josko, Mr. Krupinski, Ms. Walter, Ms. Walter, Chair McGoldrick

Nays: None

Abstain: None

Ineligible: Councilmember Dougherty, Ms. Majewski, Dr. Zuzulock, Vice Chair Neff

Absent: Mr. Boms, Mr. Caccamo, Mr. Kurdes, Mr. Berth

PB23-02: Kalian – 160 First Ave., B101 L4.01

Mr. Steib announced that there will be a Special Meeting on November 21st to hear the continuance of the application and noted that there will be no re-noticing.

New Application PB22-18: Baker – 170 Ocean Blvd., B17 Ls 8.01 & 8.02

Mr. Steib reported that the Board had jurisdiction and listed the list of Exhibits A-1 – A5.

Salvatore Alfieri, applicant's attorney, gave an overview of the application and introduced their architect.

Anthony Condouris, applicant's architect, was sworn in and described the proposed design and floorplans. He noted that the project would comply with building height restrictions. Mr. Rohmeyer confirmed height restrictions and noted the Borough's story limitations. Mr. Condouris explained his 2.5 story justification for the project. Mr. Rohmeyer asked if the applicant had considered other locations further from the slope. Dr. Zuzulock asked about the distance from neighbors. Mr. Rohmeyer asked about topography study and Mr. Alfieri answered that they would comply if needed. Mr. Rohmeyer asked about the roof design, storm water management, and utilities. Mr. Condouris stated that he hadn't designed the gutters yet and that the engineer could better answer other points of Mr. Rohmeyer's questions. Dr. Zuzulock asked about the area under the house and Mr. Alfieri answered that the area would be impervious.

Chair McGoldrick opened the floor for public questions.

Kim Austin, ??, asked for clarification on building height measurement and how it compared with the neighbors. Mr. Rohmeyer answered and Mr. Condouris answered that he did not make that comparison.

?? Barber, ?? Neighbor above, shared that how building height was measured in the Andirondacks and asked for clarification of the lot numbering and why the applicant was building on the property line. Mr. Alfieri explained the lot numbering, stating that they were starting with 2 lots and ending with 2 lots, and noted that there was a recent vacation of the street.

Maureen ??, Barber Rd., asked about trees on the property and Mr. Alfieri noted that the engineer could better answer her.

Chair McGoldrick reminded all of the Planning Board procedures.

Brian Murphy, applicant's engineer, was sworn in and introduced new exhibits (A9 – A 11). He described the current lot lines, proposed new lot lines, the septic and drywell drainage system, utilities, parking situation, tree removal plan, and showed photos that represented the current conditions of the property. Mr. Rohmeyer skipped points from his report that he agreed with Mr. Murphy's testimony. He gave an overview of the history of the property's owners. Mr. Steib added additional details about previous owners and subdivisions. Mr. Rohmeyer asked for clarification of the square footage of the property prior to the vacation of Shore Rd. Mr. Alfieri did not have the information but would follow up with the answer. Dr. Zuzulock asked why Shore Rd. was vacated and Mr. Alfieri noted the vacation Ordinance and the cross-access easements. Councilmember

Dougherty read the 2018 Ordinance. Mr. Rohmeyer noted that the lot was smaller but is now bigger after the vacation. Mr. Steib stated that the road was under common ownership at one point and explained that the previous illegal subdivision was now legal as the Borough had not contested it within the 2 years to contest the illegal subdivision. He posed the question if the situation is a self-created hardship.

Mr. Murphy continued his testimony addressing points from the CME report. He noted that Mr. Baker co-signed the cross easement and then listed variances needed. Chair McGoldrick asked for clarification of Shore Rd. label on his exhibit and Mr. Murphy noted that owners are responsible for maintaining Shore Rd. and that Ocean Blvd. is the mailing address. Mr. Rohmeyer asked about stormwater management, noting the proximity of the home to the slope. Dr. Zuzulock asked about the drywell and how water run-off would affect the neighbor down the slope. Mr. Alfieri suggested that the applicant comes back with drainage plans. Mr. Rohmeyer noted that the drywell is not permitted as it affects the stability of the steep slope. Vice Chair Neff asked where the septic tank was located. Councilmember Dougherty asked what heavy equipment would be used. Mr. Josko asked about utility access. Mr. Alfieri suggested that the applicant comes back with a drainage plan and wanted to hear more about the Board's concerns. Chair McGoldrick asked Mr. Rohmeyer to note any major concerns that he'd like further clarification on. Chair McGoldrick added that he wanted clarification on a Geotech report and pile locations to the slope.

Discussion of steep slope slumping ensued among Chair McGoldrick, Dr. Zuzulock, and Councilman Dougherty.

Ms. Majewski wanted to know what vegetation was currently there now and what would be cleared for the project. Mr. Josko wanted to know more about the maintenance and easement of the Shore Rd. Mr. Steib wanted more details about allowance for emergency vehicles and noted that the application could be carried to the January 4, 2024 meeting.

Chair McGoldrick opened the floor for public questions.

Susan Duran, ??, asked for clarification for the lot numbering, lot lines, and ownerships of the lots.

James Krause, ??, asked what variances are being sought.

Mr. Barber asked for clarification of the layout and design of the proposed structure.

Sarah ?, E. Highland, wanted clarification of the construction plans and methods.

Ms. Majewski wanted clarification of the lot size and lot coverage. Mr. Rohmeyer defined lot coverage and added that the Board wants to know of both information currently and proposed.

Mr. Steib noted that the application will be carried to the January 4, 2024 meeting without need to re-notice.

Adjournment: Chair McGoldrick motioned and Councilmember Dougherty seconded. All in favor. Meeting adjourned at 8:57pm.