

**IN THE MATTER OF
APPLICATION NO. PB22-24
OF GEORGE RUSH & SUSAN Mac DONALD
BLOCK 96 LOT 1**

**RESOLUTION GRANTING
VARIANCE APPROVAL**

WHEREAS, GEORGE RUSH & SUSAN Mac DONALD, hereinafter the "Applicant", has proposed the development of property located at 56 Second Avenue, in the Borough of Atlantic Highlands, County of Monmouth, and State of New Jersey which property is further known and designated as Block 96, Lot 1 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 construct a 188 square foot footprint two-story (376 sq. ft.) addition consisting of a kitchen, master bedroom suite and additional attic space and a 200 square foot one-story addition consisting of a sunroom with a new concrete patio and walkways requiring Variance relief to permit a front yard setback from East Mount Avenue of 6 +/- feet, where 20 feet is required and a maximum usable floor area ratio of 0.46 where 0.40 is permitted. The foregoing is contrary to the provisions of Chapter 150, Article V, Section 150-29 and Article VII, Section 150-49 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 June 1, 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

2. The premises in question are located at 56 Second Avenue, in the Borough of Atlantic Highlands, County of Monmouth and State of New Jersey which property is further known and designated as block 96, lot 1 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 100.00 ft. x 100.00 ft. x 106.50 ft. x 100.21 ft. and is rectangular in shape with an approximate area of 10,325 square feet. The premises in question are presently developed with an existing two-story residential dwelling with a detached garage and asphalt driveway. The subject property has a pre-existing non-conforming front yard setback from second Avenue of 18+/- feet where 20 feet is required and an existing non-conforming front yard setback from East Mount Avenue of 6 +/- feet where 20 feet is required. The proposed one-story addition will continue the non-conforming front yard setback from Mount Avenue thus increasing the non-conformity requiring Variance approval. The proposed additions will result in a usable floor area ratio of 0.46 where 0.40 is required and 0.39 exists. The Applicants presented the testimony of George Rush and Joseph Solfaro, a licensed Architect in the State of New Jersey. They presented testimony that the existing home is approximately 100 years old with small rooms and tight living quarters. The proposed additions will match the existing building height of approximately 27 feet which is below the 34 feet that is permitted in the zone. The detached garage will not be utilized for habitable living space. The Applicant agreed to provide a detailed grading plan to the satisfaction of the Planning Board Engineer in order to confirm no adverse runoff impacts from the proposed improvements. Although the usable floor area ratio is exceeded, the proposed improvement will not result in excessive building coverage or lot coverage, which will remain less than what is permitted in the zone. The Applicant agreed to move the air conditioning equipment pads to the driveway "north" side of the home. The Applicant also provided testimony that the property will not have a rooftop deck.

8. The Planning Board further finds that the grant of the usable floor area ratio Variance is justified. The proposed additions are modest in area and are being placed in an area that is not visible from Second Avenue, will have minimal visibility from Mount Avenue, the building will remain architecturally consistent with the surrounding properties and will not be overpowering in appearance. They will allow this home to function more efficiently and the lot and existing improvements are such that the property can easily accommodate this additional floor area which is di minimis in scope.

9. As noted previously herein, the proposed improvements will not have substantial adverse impacts upon the streetscape and surrounding properties and will be consistent with the existing Zone Scheme of the area and not result in any substantial impairment of the Zone Plan and Zoning Ordinance.

10. 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.

11. 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 evidence in favor of, or in opposition to, the appeal. The Planning Board notes that an adjacent neighbor to the east did appear and expressed concerns about the location of the existing fence along the easterly property line of the subject parcel as well as concern about the large tree on the property that appears to be in decline. The Planning Board finds that the property owners should cooperate with one another with respect to resolving those concerns which are unrelated to the issues for the Board with respect to the building setback and floor area ratio. The Planning Board further notes that several other residents appeared in favor of the application.

- 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

- a. 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.

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: Ms. Majewski

SECONDED BY: Mr. Josko

ROLL CALL:

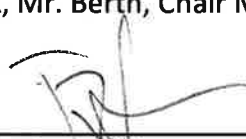
YES: Mr. Josko, Mr. Krupinski, Ms. Majewski, Ms. Walter, Vice Chair Neff

NO: None

ABSTAIN: None

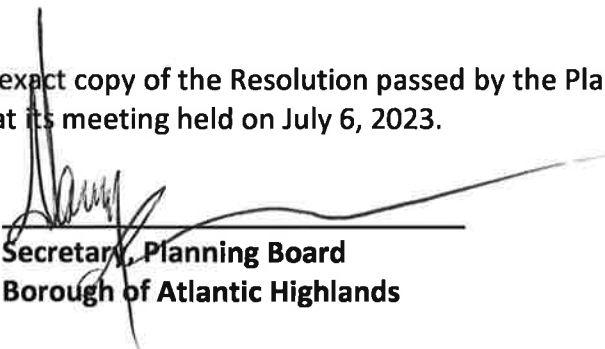
INELIGIBLE: Councilmember Dougherty, Mr. Hawley, Mr. Kurdes

ABSENT: Mr. Boms, Mr. Caccamo, Dr. Zuzulock, Mr. Berth, Chair McGoldrick



**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 July 6, 2023.



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