

**IN THE MATTER OF
APPLICATION NO. PB17-17
OF ANSHUMAT PARASAR
BLOCK 13, LOT 24**

**RESOLUTION GRANTING
VARIANCE APPROVAL**

WHEREAS, ANSHUMAT PARASAR, hereinafter the "Applicant", has proposed the development of property located at 210 Ocean Boulevard, in the Borough of Atlantic Highlands, County of Monmouth, and State of New Jersey which property is further known and designated as Block 13, Lot 24 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 bulk and use variance approval to construct an exterior spiral stair landing building addition to the second floor of an existing residence, to partially enclose the existing second floor deck area and create a third floor deck area. The proposed additions/renovations to the second floor include adding a spiral stair landing, enclosing the existing second floor deck area and the reconfiguration of interior walls require variance relief to permit building coverage of 14.6% where 12% is permitted and 14.36% exists and a usable floor area ratio of 0.302 where 0.175 is permitted and 0.286 exists, contrary to the provisions of Chapter 150, Article V, Section 150-29 and Exhibit 5-2 of the Development Regulations of the Borough of Atlantic Highlands; 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 July 12, 2018, 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 denial of Zoning Officer Michelle Clark, dated December 20, 2017, marked as Exhibit A-1 in evidence.

1.2 Application for variance of Anshumat Parasar dated November 1, 2017, marked as Exhibit A-2 in evidence.

1.3 Survey of Block 13, Lot 24 prepared by Charles Surmonte, P.E. & P.L.S., dated February 14, 2017, marked as Exhibit A-3 in evidence.

1.4 Architectural Elevation and Floor Plans prepared by Gregory Ralph, Architect, dated November 1, 2017, marked as Exhibit A-4 in evidence.

1.5 Review No. 1 of CME Associates, dated February 8, 2018, revised February 12, 2018, marked as Exhibit A-5 in evidence.

1.6 Five (5) photographs and 3D views of residence, prepared by Gregory Ralph, Architect marked as Exhibit A-6 in evidence.

2. The premises in question are located at 210 Ocean Boulevard, in the Borough of Atlantic Highlands, County of Monmouth and State of New Jersey, which property is further known and designated as Block 13, Lot 24 on the Tax Map of the Borough of Atlantic Highlands.

3. 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.

4. The premises in question have approximate dimensions of 100.00 ft. x 140.00 ft. x 90.00 ft. x 140.00 ft. and is rectangular in shape with an approximate area of 13,300 sq. ft. The subject property has pre-existing non-conforming elements of lot area of 13,300 sq. ft. where 30,000 sq. ft. are required, lot shape diameter of 64.33 ft. where 65 ft. are required, side yard setback of 10.4 ft. where 15 ft. are required and total side yards of 25.8 ft. where 30 ft. are required, existing building coverage of 14.36% (1,911 sq. ft.) where 12% (1,596 sq. ft.) are permitted and usable floor area ratio of 0.286 (3,806 sq. ft.) where 0.175 (2,327 sq. ft.) are permitted. These are pre-existing conditions which do not require variance approval and may be continued without the requirement for variance relief.

5. The subject premises are presently developed with an existing two-story single family residential home with asphalt driveway.

6. The Applicant proposes to enclose an existing terrace on the second floor of the home which will increase the usable floor area by approximately 206 sq. ft., thus increasing the usable floor area ratio from 0.286 to 0.302 where 0.175 is permitted. There will also be a second floor landing leading to an exterior spiral stairway increasing building coverage by 32

sq. ft. increasing from 14.36% to 14.6% where 12% is permitted. These two changes require a "D" variance for usable floor area ratio and a "C" bulk variance for building coverage.

7. The Applicant presented the testimony of property owner Anshumat Parasar and Architect Gregory Ralph. The testimony and exhibits demonstrated that the existing second floor has an awkward layout, where the kitchen area is visually blocked off from the adjacent family room by the current exterior wall that surrounds the second floor terrace. The Applicant proposes to remove the current exterior wall and to create a new wall enclosing the terrace and making it part of the second floor interior, thus opening up the area so that the kitchen and family room become one unified open area. This will permit the second floor to function as a unit with an open plan with sight lines between the living room and kitchen area. The new landing to the exterior spiral staircase will make the rear yard more accessible and usable.

8. The Applicant's witnesses provided testimony that all improvements are within the required setbacks for the Zone and that the improvements will not be visible from either side of the residence or from the street.

9. The Applicant also provided testimony that there will be an upper third floor terrace. The Applicant agreed that the terrace will never be enclosed but will remain permanently open. The Applicant further agreed that appropriate safety railing features would be included in the upper terrace design to insure the safety of the residents and their guests utilizing that portion of the structure.

10. The Planning Board finds that the Applicant has satisfied the positive and negative criteria for the grant of the requested building coverage variance. The Planning Board finds that the exterior spiral staircase is an appropriate amenity to the home and that the 32 sq. ft. landing is appropriate to access the stairway. The Planning Board further finds that 32 sq. ft. are di minimis in the context of this residential home. The Planning Board further finds that this is the only place where this appropriate amenity can be constructed on the residence to have proper function.

11. The Planning Board finds that the Applicant has satisfied the positive and negative criteria for the grant of this bulk variance relief. The Planning Board finds that there is a hardship associated with the property due to the existing location and configuration of the residential dwelling as the proposed location for this amenity is the only practical location for it. Without the grant of variance relief the amenity could not be provided. 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 Borough of Atlantic Highlands Development Regulations 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 this amenity to the property.

12. The Planning Board 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 will not result in any substantial detriment to the public good as the proposed improvements will not be

visible from the street or from the property on either side of the subject parcel. In addition the amenity will be over 60 ft. from the rear yard lot line which is more than twice the required setback. Therefore the Planning Board finds that any impacts are minimal and that there will be no substantial detriment to the public good as there will be no significant impact upon the streetscape or any of the surrounding properties or the neighborhood.

13. The Planning Board further finds that the grant of the requested variance will not result in any substantial impairment of the Zone Plan or Zoning Ordinance. As set forth previously herein, the deviation is an additional 32 sq. ft. which is minimal in nature with minimal or no visibility from the streetscape or other properties. The Planning Board finds that the building coverage limitations in the Ordinance are designed to insure that buildings are not constructed which are so large as to have an overly imposing appearance upon the streetscape or upon surrounding properties. The Planning Board finds that this minor 32 sq. ft. addition to building coverage to the rear of the home with little or no visibility to the street or adjacent properties will not offend the purposes for which the Zoning Ordinance was adopted and therefore will not result in any substantial impairment of the Zone Plan and Zoning Ordinance.

14. The Planning Board further finds that the Applicant has satisfied the positive criteria for the grant of the requested usable floor area ratio variance. The Planning Board notes that the standard for determining whether such variance may be granted does not require the Applicant to demonstrate that the site is particularly suited for more intensive development. Instead the Applicant is required to show that the site will accommodate the problems associated with the floor

area larger than that permitted by the Ordinance. The Planning Board notes that this case deals with an existing single family home. The proposed 206 sq. ft. increase in floor area by enclosing an existing deck will not result in a larger home with more bedrooms, more occupants or more intense use of the structure. Instead it will allow a more open and functional floor plan to permit the dwelling to have improved interior design and circulation. The existing 206 sq. ft. floor area of deck living space will now be enclosed to make it part of the interior living space. The Planning Board finds that this does not create any additional problems with the intensity of the use of this property, as it will not increase the intensity of use. It will still be a single family residence with the same number of bedrooms. The property can accommodate the additional floor area notwithstanding that it exceeds that which the ordinance permits. Therefore the Applicant has satisfied the positive criteria for the grant of the requested variance relief.

15. The Planning Board finds that the Applicant has also satisfied the negative criteria for the grant of the requested floor area ratio variance. The Planning Board finds that there will be no substantial detriment to the public good flowing from this variance relief as there will be no adverse impacts upon the streetscape or the adjacent properties. The Planning Board finds that the enclosure of this 206 sq. ft. existing terrace will not result in any adverse impacts to the streetscape or surrounding properties. It will be minimally visible and, with the exception of the small landing, will not extend beyond the existing perimeter of the home. Therefore there is no detriment to the public good flowing from the grant of this variance.

16. The Planning Board further finds that the grant of the requested variance relief will not result in any substantial

impairment to the Zone Plan and Zoning Ordinance. The Planning Board finds that the floor area ratio requirements are designed to insure that properties are not overdeveloped such that the intensity of the use from the square footage of the building exceeds the ability of the site to handle that intensity of use. In this case, the proposed enclosure of existing exterior terrace space will not result in an increase in intensity of use of the property which will remain a single family residence with the same number of bedrooms and will not increase the intensity of the use of this property beyond that which currently exists. Therefore the purposes for which the Ordinance provisions were adopted are not offended by the grant of the requested variance relief.

17. 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.

18. 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 support of or in opposition to the appeal.

NOW THEREFORE, BE IT RESOLVED by the Planning Board of the Borough of Atlantic Highlands on this 31st day of July, 2018 that the Application of **ANSHUMAT PARASAR** 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.

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. Building coverage of 14.6% (1,943 sq. ft.) where 12% is permitted.

b. Usable floor area ratio of 0.302 (4,012 sq. ft.) where 0.175 is permitted.

2. The third floor upper terrace shall permanently remain open and shall not be enclosed.

3. The third floor terrace design shall incorporate safety railing features to insure that residents and guests on the property are protected from the risk of falling.

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. Colangelo

SECONDED BY: Mr. McGoldrick

ROLL CALL:

YES: Mr. Hawley, Mr. Caccamo, Dr. Cetron,
Mr. Colangelo, Ms. Hoffman, Mr. Neff, Mr. Pepe,
Mr. McGoldrick, Mr. Dougherty

NO: None

ABSTAIN: None

RECUSED: Mr. Illiano

ABSENT: Councilman Fligor, Mrs. Murray, Mr. Ilarazza



**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 31, 2018.



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