

**IN THE MATTER OF
APPLICATION NO. PB20-16
OF MICHAELE MANIGRASSO
BLOCK 87 LOT 5**

**RESOLUTION GRANTING
VARIANCE APPROVAL**

WHEREAS, MICHAELE MANIGRASSO, hereinafter the "Applicant", has proposed the development of property located at 30 Asbury Avenue, in the Borough of Atlantic Highlands, County of Monmouth, and State of New Jersey which property is further known and designated as Block 87, Lot 5 on the Tax Map of the Borough of Atlantic Highlands; and

WHEREAS, the Applicant proposes to remove an existing rear yard covered porch and patio and construct a 2.5 story addition to the rear of an existing dwelling. The addition will follow the existing building line requiring a single side yard setback of 10 feet where 10 feet are required and 6 feet exist and a combined side yard setback of 18 feet where 20 feet is required and 18 feet exists. The Applicant also requires a Variance for first floor area of 770 square feet where 900 square feet is required and 500 square feet exists. The foregoing is contrary to the provisions of Section 150-29 of the Development Regulations of the Borough of Atlantic Highlands; and

WHEREAS, the subject property is located in the R-1 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 3, 2021, 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 Development Permit of Michaele Manigrasso, dated May 5, 2020, marked as Exhibit A-1 in evidence.

1.2 Denial of Zoning Officer Michelle Clark, dated May 12, 2020, marked as Exhibit A-2 in evidence.

1.3 Application for Variance of Michaele Manigrasso, dated July 2, 2020, marked as Exhibit A-3 in evidence.

1.4 Survey prepared by Richard E. Stockton, dated August 5, 2019, marked as Exhibit A-4 in evidence.

1.5 Architectural Elevation and Floor Plans prepared by Michelle Di Salvo, Architect, dated June 2020 revised January 12, 2021, marked as Exhibit A-5 in evidence.

1.6 Completeness Review #1 of CME Associates, dated September 10, 2020, marked as Exhibit A-6 in evidence.

1.7 Variance Plan prepared by Richard Stockton, dated October 6, 2020 revised April 5, 2021, marked as Exhibit A-7 in evidence.

1.8 Four photographs of existing residence from various vantage points, marked as Exhibit A-8 a-d in evidence.

1.9 Review number 2 of CME Associates, dated April 19, 2021, marked as Exhibit A-9 in evidence.

2. The premises in question are located at 30 Asbury Avenue, in the Borough of Atlantic Highlands, County of Monmouth and State of New Jersey, which property is further known and designated as Block 87, Lot 5 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 homes with associated accessory structures are a permitted use in the Zone.

4. The subject property is an undersized lot of record with approximate dimensions of 50.00 feet x 130.00 ft. x 50.00 ft. x 130.00 feet and is an elongated rectangle in shape with a lot area of 6,500 square feet where 7,500 square feet is required, lot frontage of 50 feet where 75 feet is required, lot shape diameter of 30 feet where 50 feet is required, accessory side yard setback of 3.2 feet where 5 feet is required and accessory rear yard setback of 3.9 feet where 5 feet is required. All of which are pre-existing non-conforming elements which will remain unchanged by this application.

5. The subject property is presently developed with a two-story residential dwelling with a covered front porch, a covered rear patio and associated driveways and walkways. There is also a detached frame garage. The Applicant proposes to remove the existing rear yard covered porch and patio and construct a 2.5 story addition to the rear of the existing dwelling. Since that addition will follow the same building sidelines, Variances are required for side yard setback of 6 feet where 10 ft. is required and combined side yard setback of 18 feet where 20 feet is required. The increase in size of the residence still requires a first floor area Variance for 770 square feet where 900 square feet is required. However, this is an improvement over existing additions as the existing residence has first floor area of only 500 square feet. Thus, the proposal is an improved condition over what currently exists.

6. The Applicant, Micheale Manigrasso, was sworn and testified that the existing home was constructed in or about 1910 and has limited habitable area. The Applicant desires to place a 2.5 story addition to the rear of the existing structure in order to provide more living space. The Applicant testified that the home currently has 3 bedrooms and that situation will be unchanged. There will continue to be 3 bedrooms on the property, however, they will be enlarged in order to provide better, more functional, living space.

7. The Planning Board finds that the Applicant has satisfied the positive criteria for the grant of the requested variance relief. The Variances in this case are for side yard setback that request for deviation results from the fact that the subject property is a long, narrow parcel and that a reasonably sized structure cannot be placed on the property without the requirement for Variance relief as the residence would have to be so narrow as not to be able to provide rooms of adequate size. In addition to the foregoing, the Applicant is following the existing building wall lines which is necessary as this is an addition to an existing structure and placing an addition elsewhere other than to the rear yard would require additional Variances. Thus, the Planning Board finds that the location of the proposed addition is the optimum location on the subject property. The Planning Board further finds that the narrowness of the property coupled with the location of the existing dwelling thereon creates an extraordinary and exceptional situation uniquely effecting this specific piece of property and the structures lawfully existing thereon 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 placing any reasonably sized addition to this structure which is already undersized. The Planning Board notes that the proposed addition will eliminate the total floor area Variance where the existing structure has only 1,000 square feet of total floor area where 1500 square feet is required and will increase first floor area from 500 square feet to 770 square feet which is more conforming than existing conditions.

8. 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 notes that the addition is to be placed to the rear of the property and will have little or no visibility from Asbury Avenue as the existing residence will block its view from the streetscape. The proposed addition will maintain the required rear yard setback and will have minimal impact upon the properties to the rear. The only impact will be to the adjacent property to the west which is lot 6. The Planning Board finds that this modest addition continuing the existing side yard setback will not have any substantial impact upon that adjacent property. That property owner currently has a 6 foot side yard setback which will continue and not result in any significant change in the impact of the existing dwelling and the proposed addition on the adjacent property owner. The Planning Board further finds that the proposed addition will actually improve the surrounding neighborhood by providing for a more conforming and functional residential structure.

9. The Planning Board further finds that the grant of the requested Variance relief will not result in any substantial impairment of the Zone Plan or Zoning Ordinance. The Planning Board finds that the side yard setback requirement is designed in order to ensure there is adequate light, air and open space around and between structures. In this case the deviation for the side yard setback is an existing condition and the proposed modest addition to the home will not create any greater impacts upon light, air and open space than currently exist. Moreover, the Zone scheme is not impacted along the streetscape of Asbury Avenue in this area as the proposed addition will not be visible from the street as it will be blocked by the existing residential dwelling. Thus, the Planning Board finds that any adverse impacts upon the Zone Plan or Zoning Ordinance are di minimis and insubstantial. Moreover it will eliminate or mitigate existing nonconforming conditions thereby improving the property to be more conforming with the zone plan.

10. With respect to the building first floor area the Planning Board finds that this addition will decrease the nonconformity of the dwelling. Therefore it is a positive impact as it will bring the size and character of the structure into greater conformity with the existing neighborhood. Consequently, the Planning Board finds that the grant of the Variance is justified.

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 have been 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.

NOW THEREFORE, BE IT RESOLVED by the Planning Board of the Borough of Atlantic Highlands on this 1st day of July, 2021 that the Application of **MICHAELA MANIGRASSO**, 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.(Not Applicable)

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. (Not Applicable)

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. Not Applicable)

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. (Not Applicable)

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. (Not Applicable)

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 relief granted in connection with this application is as follows:

A. Variance relief to permit the proposed addition with side yard setback of 6 feet where 10 feet is required.

B. Variance relief to permit the construction of the proposed addition with a combined side yard setback of 18 feet where 20 feet is required.

C. Variance to permit first floor area of the structure of 770 square feet where 900 square feet is required.

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.

OFFERED BY: MR. DOUGHERTY
SECONDED BY: MRS. MURRAY

ROLL CALL: MR. DOUGHERTY, MR. CROWLEY, MR. HAWLEY, MR. CACCAMO, MR. MCGOLDRICK, MR. NEFF, MRS. MURRAY, MR. COLANGELO, MR. CROWTHER, MR. KRUPINSKI, MR. CURRY

YES: MR. DOUGHERTY, MR. CROWLEY, MR. HAWLEY, MR. CACCAMO, MR.MCGOLDRICK,
MR. NEFF, MRS. MURRAY, MR. COLANGELO, MR. CROWTHER

NO: NONE

ABSTAIN: NONE

ABSENT: MR. PEPE, MR. JOSKO



**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 1, 2021.



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