

**IN THE MATTER OF
APPLICATION NO. PB20-19
OF KATHY JASONTEK & AUGUST ZILINCAR
BLOCK 9 LOT 5.03**

**RESOLUTION GRANTING
VARIANCE APPROVAL**

WHEREAS, KATHY JASONTEK & AUGUST ZILINCAR, hereinafter the "Applicant", has proposed the development of property located at 254 East Highland Avenue, in the Borough of Atlantic Highlands, County of Monmouth, and State of New Jersey which property is further known and designated as Block 9, Lot 5.03 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 preliminary and final variance approval to construct a 12.25 ft. x 21 ft. garage addition with driveway expansion on the south westerly façade of an existing two-story dwelling requiring variance relief for building coverage of 12.2% where 12% is permitted, 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 March 4, 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 of Kathy Jasontek & August Zilincar, dated August 20, 2020, marked as Exhibit A-1 in evidence.

1.2 Grading Plan prepared by Andrew Stockton, P.E., dated July 31, 2020, marked as Exhibit A-2 in evidence.

1.3 Steep Slope Review #1 prepared by CME Associates, dated September 22, 2020, marked as Exhibit A-3 in evidence.

1.4 Architectural Plan prepared by Lon Gordon Skidds, A.I.A., dated October 26, 2020, marked as Exhibit A-4 in evidence.

1.5 Zoning Denial of Zoning Officer Michelle Clark, dated October 29, 2020, marked as Exhibit A-5 in evidence.

1.6 Variance Review #1 prepared by CME Associates, dated December 10, 2020, marked as Exhibit 6 in evidence.

2. The premises in question are located at 254 East Highland Avenue, in the Borough of Atlantic Highlands, County of Monmouth and State of New Jersey, which property is further known and designated as Block 9, Lot 5.03 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 homes with associated accessory structures are a permitted use in the Zone.

4. The premises in question has approximate dimensions of 100.00 ft. x 257.58 ft. x 150.00 ft. x 60.23 ft. x 137.73 ft. x 45.90 ft. and is substantially irregular in shape with frontages on East Highland Avenue to the south and Ocean Boulevard to the north. The property is bordered on its east and west sidelines by existing single-family residential homes. The subject property has two existing nonconforming elements including lot area of 25,951 sq. ft. where 30,000 sq. ft. is required and side yard setback of 10.5 ft. where 15 ft. are required. Those nonconformities are the result of prior variance relief granted.

5. The subject property is currently developed with an existing two-story residential dwelling with attached garage with associated driveways, walkways, deck and terrace areas. The property is encumbered with a deed restriction requiring a minimum side yard setback along its westerly property line of 33 feet. The Applicant proposes to construct a 12.5 ft. x 21 ft. garage addition with driveway expansion on the south westerly façade of the existing two-story dwelling. This will result in building coverage of 12.2% where 12% is permitted. This exceeds the allowable building coverage by approximately 51.9 sq. ft. The garage addition has been placed adjacent to the existing attached garage along the southerly façade of the dwelling with a slight increase in driveway to accommodate the turning radius into the garage addition.

6. The Applicant was represented by David Trombadore, Esq. who presented the testimony of Andrew Stockton, a Licensed Professional Engineer, Professional Planner and Surveyor in the State of New Jersey. Mr. Stockton testified that the Applicant received a steep slope review and approval with conditions, all of which are met by the subject application. He further testified that the disturbance for the proposed garage does not exceed that amount of disturbance that would require review or approval by the Freehold Soil Conservation District. Mr. Stockton testified that the proposed improvements will result in only a di minimis increase in stormwater runoff, peak rates and volume and that, in effect, the proposed improvements

will not result in any change from existing stormwater conditions. He agreed to provide a final grading plan with existing and proposed conditions to be reviewed and approved by the Planning Board Engineer to ensure that there is no excessive increase in runoff. In addition, if required a small dry well, recharge chamber or similar stormwater management element will be added to the plan in order to ensure no adverse runoff impacts.

Mr. Stockton testified that the 33 ft. enhanced side yard setback along the westerly property line was agreed upon at the time subdivision approval was granted for this parcel to preserve the viewshed of the adjacent properties to the west. He testified that the proposed garage addition will not interfere with those viewsheds. He noted the viewshed lines shown on the plans demonstrate that there will be no impact of the proposed garage addition on them.

7. Mr. Stockton testified that the one bay garage will not constitute over building on this site. He noted that the property with the proposed improvements will still be well under the maximum impervious lot coverage allowed. He further noted that the coverage is well under that permitted by the steep slope ordinance. He opined that the need for the variance arises from the undersized condition of the lot. Were the lot of the required lot size for the R-3 Zone it would comply. Thus, he opined that the proposed improvement is consistent with the vision of the Zoning Ordinance for sizes of structures in this Zone and is consistent with the improvements on adjacent and nearby parcels.

Mr. Stockton testified that the Applicant will not be utilizing garage space for living area but only for storage of vehicles and other items consistent with the requirements for a single family residential home.

8. Mr. Stockton reviewed the engineering report prepared by the Planning Board's Engineer and agreed that as a condition of approval the Applicant will comply with the technical recommendations set forth in that report marked as Exhibit A-6 in evidence.

9. The Planning Board finds that the Applicant has satisfied the positive criteria for the grant of the requested variance relief. The Planning Board agrees with the Applicant that the need for variance relief results from the lot being undersized and if the lot were slightly larger no variance would be required. As a result of the foregoing the Planning Board finds that an extraordinary and exceptional situation uniquely effecting this specific piece of property and the structures lawfully existing thereon exists such that the strict application of the Development Regulations of the Borough of Atlantic Highlands would result in peculiar and exceptional practical difficulties to and exceptional and undue hardship upon the Applicant as it would prevent the Applicant from having this accessory garage structure which is a usual amenity for homes located in the R-3 Residential Zone District. Therefore, these conditions limit the extent to which the property can be lawfully used in accordance with the vision of the Zoning Ordinance and results in a hardship upon the Applicant.

10. The Planning Board further finds that the Applicant has satisfied the negative criteria for the grant of the requested variance relief. The Planning Board finds that the grant of the requested variance relief will not result in any substantial detriment to the public good. The Planning Board notes that the deviation from the zoning requirement is a mere 51.9 square feet which will be imperceptible from a visual standpoint. The Planning Board finds that the proposed garage addition will have no visual impact on the streetscape of Ocean Boulevard as it will be blocked therefrom by the existing dwelling. It will be in excess of the side yard setback requirements from the properties to the east and west and will have setbacks from Highland Avenue and Ocean Boulevard well in excess of that which is required. In addition to the foregoing the Planning Board has reviewed the architectural renderings marked as Exhibit A-4 in evidence and finds that the proposed addition will be an attractive amenity to the existing home and will have a pleasing aesthetic appearance. Based on the foregoing, the Planning Board finds that the grant of the requested variance relief will not result in any substantial detriment to the public good as any negative impacts are di minimis and insubstantial.

11. The Planning Board finds that the grant of the requested variance relief will not result in substantial impairment of the Zone Plan or Zoning Ordinance. The Planning Board finds that the building coverage Ordinance is designed to ensure that buildings are not constructed that are so large and imposing that they appear to be overdevelopment of the property, impede upon light, air and open space between properties and create stormwater issues. As noted previously herein, the Applicant's Engineer provided testimony that there will be no adverse stormwater management impacts and agreed to work with the Planning Board Engineer to ensure there are none. In addition, the Planning Board finds from the plans submitted based upon the existing setbacks and the architectural renderings that the proposed garage addition will not have the adverse impacts upon the streetscape, surrounding properties and the neighborhood that the Zoning Ordinance and Zone Scheme was intended to protect against. Therefore, the grant of the variance relief will not offend the purposes for which the Zoning Ordinance provision was adopted as the proposed structure will not have an overbearing appearance, have adverse stormwater impacts or impede upon light, air and open space.

12. 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 variance can and should be granted at this time.

13. 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 April 2021, that the Application of **KATHY JASONTEK & AUGUST ZILINCAR** be and is hereby approved, which preliminary and final variance 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. (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.

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 to permit the construction of a 12.25 ft. x 21 ft. garage addition and driveway expansion pursuant to plans marked as Exhibit A-2 in evidence.
- 2) The Applicant shall maintain the required 33 ft. side yard setback from the westerly property line.
- 3) The Applicant shall provide a grading plan with existing and proposed conditions to demonstrate there will be no adverse stormwater impacts from the proposed addition which shall approved by the Planning Board Engineer. In the event that the Planning Board Engineer requires, the Applicant will design a drywell, recharge chamber or similar device to ensure that there is no adverse stormwater runoff resulting from this development.
- 4) The Applicant will comply with the technical recommendations set forth in the report of the Planning Board Engineer dated December 10, 2020 marked as Exhibit A-6 in evidence.
- 5) The new garage space shall not be used as a living area.

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:

SECONDED BY:

ROLL CALL:

YES:

NO:

ABSTAIN:

ABSENT:

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 April 1, 2020.

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

**IN THE MATTER OF
APPLICATION NO. PB20-19
OF KATHY JASONTEK & AUGUST ZILINCAR
BLOCK 9 LOT 5.03**

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WHEREAS, the Applicant has applied to the Planning Board of the Borough of Atlantic Highlands for preliminary and final variance approval to construct a 12.25 ft. x 21 ft. garage addition with driveway expansion on the south westerly façade of an existing two-story dwelling requiring variance relief for building coverage of 12.2% where 12% is permitted, 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 March 4, 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

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5. The subject property is currently developed with an existing two-story residential dwelling with attached garage with associated driveways, walkways, deck and terrace areas. The property is encumbered with a deed restriction requiring a minimum side yard setback along its westerly property line of 33 feet. The Applicant proposes to construct a 12.5 ft. x 21 ft. garage addition with driveway expansion on the south westerly façade of the existing two-story dwelling. This will result in building coverage of 12.2% where 12% is permitted. This exceeds the allowable building coverage by approximately 51.9 sq. ft. The garage addition has been placed adjacent to the existing attached garage along the southerly façade of the dwelling with a slight increase in driveway to accommodate the turning radius into the garage addition.

6. The Applicant was represented by David Trombadore, Esq. who presented the testimony of Andrew Stockton, a Licensed Professional Engineer, Professional Planner and Surveyor in the State of New Jersey. Mr. Stockton testified that the Applicant received a steep slope review and approval with conditions, all of which are met by the subject application. He further testified that the disturbance for the proposed garage does not exceed that amount of disturbance that would require review or approval by the Freehold Soil Conservation District. Mr. Stockton testified that the proposed improvements will result in only a di minimis increase in stormwater runoff, peak rates and volume and that, in effect, the proposed improvements

will not result in any change from existing stormwater conditions. He agreed to provide a final grading plan with existing and proposed conditions to be reviewed and approved by the Planning Board Engineer to ensure that there is no excessive increase in runoff. In addition, if required a small dry well, recharge chamber or similar stormwater management element will be added to the plan in order to ensure no adverse runoff impacts.

Mr. Stockton testified that the 33 ft. enhanced side yard setback along the westerly property line was agreed upon at the time subdivision approval was granted for this parcel to preserve the viewshed of the adjacent properties to the west. He testified that the proposed garage addition will not interfere with those viewsheds. He noted the viewshed lines shown on the plans demonstrate that there will be no impact of the proposed garage addition on them.

7. Mr. Stockton testified that the one bay garage will not constitute over building on this site. He noted that the property with the proposed improvements will still be well under the maximum impervious lot coverage allowed. He further noted that the coverage is well under that permitted by the steep slope ordinance. He opined that the need for the variance arises from the undersized condition of the lot. Were the lot of the required lot size for the R-3 Zone it would comply. Thus, he opined that the proposed improvement is consistent with the vision of the Zoning Ordinance for sizes of structures in this Zone and is consistent with the improvements on adjacent and nearby parcels.

Mr. Stockton testified that the Applicant will not be utilizing garage space for living area but only for storage of vehicles and other items consistent with the requirements for a single family residential home.

8. Mr. Stockton reviewed the engineering report prepared by the Planning Board's Engineer and agreed that as a condition of approval the Applicant will comply with the technical recommendations set forth in that report marked as Exhibit A-6 in evidence.

9. The Planning Board finds that the Applicant has satisfied the positive criteria for the grant of the requested variance relief. The Planning Board agrees with the Applicant that the need for variance relief results from the lot being undersized and if the lot were slightly larger no variance would be required. As a result of the foregoing the Planning Board finds that an extraordinary and exceptional situation uniquely effecting this specific piece of property and the structures lawfully existing thereon exists such that the strict application of the Development Regulations of the Borough of Atlantic Highlands would result in peculiar and exceptional practical difficulties to and exceptional and undue hardship upon the Applicant as it would prevent the Applicant from having this accessory garage structure which is a usual amenity for homes located in the R-3 Residential Zone District. Therefore, these conditions limit the extent to which the property can be lawfully used in accordance with the vision of the Zoning Ordinance and results in a hardship upon the Applicant.

10. The Planning Board further finds that the Applicant has satisfied the negative criteria for the grant of the requested variance relief. The Planning Board finds that the grant of the requested variance relief will not result in any substantial detriment to the public good. The Planning Board notes that the deviation from the zoning requirement is a mere 51.9 square feet which will be imperceptible from a visual standpoint. The Planning Board finds that the proposed garage addition will have no visual impact on the streetscape of Ocean Boulevard as it will be blocked therefrom by the existing dwelling. It will be in excess of the side yard setback requirements from the properties to the east and west and will have setbacks from Highland Avenue and Ocean Boulevard well in excess of that which is required. In addition to the foregoing the Planning Board has reviewed the architectural renderings marked as Exhibit A-4 in evidence and finds that the proposed addition will be an attractive amenity to the existing home and will have a pleasing aesthetic appearance. Based on the foregoing, the Planning Board finds that the grant of the requested variance relief will not result in any substantial detriment to the public good as any negative impacts are di minimis and insubstantial.

11. The Planning Board finds that the grant of the requested variance relief will not result in substantial impairment of the Zone Plan or Zoning Ordinance. The Planning Board finds that the building coverage Ordinance is designed to ensure that buildings are not constructed that are so large and imposing that they appear to be overdevelopment of the property, impede upon light, air and open space between properties and create stormwater issues. As noted previously herein, the Applicant's Engineer provided testimony that there will be no adverse stormwater management impacts and agreed to work with the Planning Board Engineer to ensure there are none. In addition, the Planning Board finds from the plans submitted based upon the existing setbacks and the architectural renderings that the proposed garage addition will not have the adverse impacts upon the streetscape, surrounding properties and the neighborhood that the Zoning Ordinance and Zone Scheme was intended to protect against. Therefore, the grant of the variance relief will not offend the purposes for which the Zoning Ordinance provision was adopted as the proposed structure will not have an overbearing appearance, have adverse stormwater impacts or impede upon light, air and open space.

12. 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 variance can and should be granted at this time.

13. 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 April 2021, that the Application of **KATHY JASONTEK & AUGUST ZILINCAR** be and is hereby approved, which preliminary and final variance 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. (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.

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 to permit the construction of a 12.25 ft. x 21 ft. garage addition and driveway expansion pursuant to plans marked as Exhibit A-2 in evidence.
- 2) The Applicant shall maintain the required 33 ft. side yard setback from the westerly property line.
- 3) The Applicant shall provide a grading plan with existing and proposed conditions to demonstrate there will be no adverse stormwater impacts from the proposed addition which shall approved by the Planning Board Engineer. In the event that the Planning Board Engineer requires, the Applicant will design a drywell, recharge chamber or similar device to ensure that there is no adverse stormwater runoff resulting from this development.
- 4) The Applicant will comply with the technical recommendations set forth in the report of the Planning Board Engineer dated December 10, 2020 marked as Exhibit A-6 in evidence.
- 5) The new garage space shall not be used as a living area.

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. HAWLEY

SECONDED BY: MRS. MURRAY

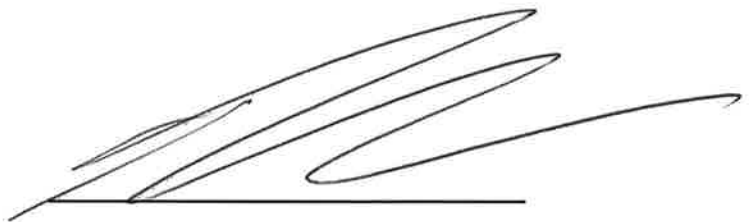
ROLL CALL: Mr. Dougherty, Mr. Hawley, Mr. Caccamo, Mr. McGoldrick, Mr. Neff, Mrs. Murray, Mr. Colangelo, Mr. Josko, Mr. Crowther, Mr. Krupinski, Mr. Curry

YES: Mr. Dougherty, Mr. Hawley, Mr. Caccamo, Mr. McGoldrick, Mr. Neff, Mrs. Murray, Mr. Colangelo, Mr. Josko

NO: NONE

ABSTAIN: NONE

ABSENT: Mr. Crowley, Mr. Pepe

A handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke at the end, positioned above a solid horizontal line.

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 April 1, 2020.



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