

**IN THE MATTER OF
APPLICATION NO. PB20-17
OF GAIL WOODS & AIDAN KING
BLOCK 6 LOT 2.05**

**RESOLUTION GRANTING
VARIANCE APPROVAL**

WHEREAS, GAIL WOODS & AIDAN KING, hereinafter the "Applicant", has proposed the development of property located at 351 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 6, Lot 2.05 on the Tax Map of the Borough of Atlantic Highlands; and

WHEREAS, The Applicant proposes to construct a 232 sq. ft. addition to the existing home over the footprint of the current deck. The Applicant further proposes a 259 sq. ft. new deck on the northeast corner of the home. Finally, the Applicant proposes to a 100 sq. ft. addition to enclose an area beneath an existing roof that connects the home to the detached garage. These improvements require the following variances:

Building coverage of 14.6% where 12% is permitted, and
Impervious coverage of 31.3% where 30% is permitted; and

WHEREAS, the subject property is located in the R-3 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 December 3, 2020, 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 review of Zoning Officer Michelle Clark dated September 1, 2020, marked as Exhibit A-1 in evidence.

1.2 Application for variance of Gail Woods and Aidan King dated September 23, 2020, marked as Exhibit A-2 in evidence.

1.3 Steep Slope Review #2 of CME Associates dated July 3, 2020, marked as Exhibit A-3 in evidence.

1.4 Site Plan with Elevation and Floor Plans prepared by S.O.M.E. Architects dated August 19, 2020, marked as Exhibit A-4 in evidence.

1.5 Technical Review #1 of CME Associates dated November 6, 2020, marked as Exhibit A-5 in evidence.

1.6 Three Renderings of proposed addition to residence marked as Exhibit 6 A, B, & C in evidence.

2. The premises in question are located at 351 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 6, Lot 2.05 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 subject property is an undersized lot of record having 23,043 sq. ft. of area where 30,000 sq. ft. is required and has approximate dimensions of 128.97 ft. x 178.50 ft. x 75.55 ft. x 58.28 ft. x 196.00 ft. and is substantially rectangular in shape with the exception of an angle along the rear property line. As noted in the report of the Planning Board Engineer, the surrounding properties are similarly zoned and developed with single family residential homes and have similar lot area. There is no land available from adjacent properties to increase the size of the subject parcel.

5. The subject property is presently developed with an existing two-story residential home with a detached garage, patio and deck areas. The within application proposes three alterations to the property. The Applicant proposes to construct a 232 sq. ft. addition to the existing home over the footprint of the current deck. The Applicant further proposes a 259 sq. ft. new deck on the northeast corner of the home.

Finally, the Applicant proposes to a 100 sq. ft. addition to enclose an area beneath an existing roof that connects the home to the detached garage.

6. The Applicant presented the testimony of Edward O'Neil, Jr. a licensed Architect and Planner of the State of New Jersey who has testified before numerous Zoning and Planning Boards in this State, including this Planning Board, and been accepted as an expert in those areas. Mr. O'Neil described the proposed improvements and described the increased building and impervious coverages as being very minor in nature and diminimis. He opined that the purposes of the Municipal Land Use Law will be promoted by granting these minor variances as the property will continue to provide adequate light, air and open space as none of the setback requirements are violated, nor is the floor area ratio. He noted that the proposed house will be approximately 3,700 sq. ft. which is similar to, or smaller than, surrounding homes in the neighborhood. Thus, he opined that this will not constitute an over-building of the site and will result in a more efficient functioning residence with a desirable, aesthetic appearance. The Planning Board agrees.

Mr. O'Neil addressed the steep slope of the property and advised that the Applicant had, before applying, retained a Soils Engineer to ensure that there will be no compromise of the steep slope. They have received those preliminary favorable findings and, with the approval granted herein, will be engaging the Soils Engineer to provide a signed, sealed plan to be approved by the Planning Board Engineer, with a report including soil borings and structural calculations to ensure that the integrity of the slope will not be disturbed by the construction

or improvements. Mr. O'Neil testified that construction access will be through the existing connection between the garage and the house and will not require additional land disturbance. He further testified that the construction will be done utilizing hand augers, three foot deep, with isolated footings. No machinery and no back hoes will be used in order to minimize to the greatest extent possible any disturbance to the steep slope area. He also testified that the stormwater gutter from the addition will be directed to a grass area on the property with flatter contour and noted that the proposed deck will allow water to run through it with no impervious surface beneath.

7. 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 this proposed development is on a lot similar in size, and the proposed improvements similar in scale, to that of other developed properties along Ocean Boulevard in the neighborhood. The proposed additions will maintain the required setbacks and not impede upon the light, air and open space of the surrounding residential homes and will have minimal visual impact upon the surrounding properties. As a result of 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 it will have only minimal impacts upon the surrounding neighborhood and some of those impacts are positive as the result of the improved aesthetic appearance of the home with the proposed additions.

8. The Planning Board 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 Ordinance provisions in question are designed to ensure that there is not overbuilding on a parcel with structures that are so large as to have an inappropriate, massive appearance for the area and to avoid excessive coverage that will compromise the steep slope and stormwater management. In this case, the Applicant provided testimony that these additions are diminimis in scope and that any stormwater management or steep slope issues are being addressed by a Soils Engineer who will be providing a report with soil borings and structural calculations to the satisfaction of the Planning Board's Engineer to ensure that the steep slope areas will not be compromised and that proper stormwater management will be maintained. Moreover, the Planning Board finds that the proposed residence with the improvements will be consistent in size and appearance with other residential homes in the area and will not alter the neighborhood zone scheme so that any impacts are insubstantial.

9. As a result of all of the foregoing the Planning Board finds that the Applicant has satisfied the positive and negative criteria for the grant of the requested variance relief and that the variances can and should be granted at this time.

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 7th day of January 2021, that the Application of **GAIL WOODS & AIDAN KING** be and is hereby approved, which approval is expressly conditioned upon compliance with the following terms and conditions:

GENERAL CONDITIONS -

1) This approval is subject to the accuracy and completeness of the submissions, statements, exhibits and other testimony filed with, or offered to, the Board in connection with this application, all of which are incorporated herein by reference and specifically relied upon by the Board in granting this approval. This condition shall be a continuing condition subsequent which shall be deemed satisfied unless and until the Board determines (on Notice to the Applicant) that a breach hereof has occurred.

2) In the event that any documents require execution in connection with the within approval, such documents will not be released until all of the conditions of this approval have been satisfied unless otherwise expressly noted.

3) No taxes or assessments for local improvements shall be due or delinquent on the subject property.

4) The Applicant shall pay to the municipality any and all sums outstanding for fees incurred by the municipality for services rendered by the municipality's professionals for

review of the application for development, review and preparation of documents, inspections of improvement and other purposes authorized by the Municipal Land Use Law. The Applicant shall provide such further escrow deposits with the municipality as are necessary to fund anticipated continuing municipal expenses for such professional services, if any, in connection with the Application for Development as may be authorized by the Municipal Land Use Law.

5) The Applicant shall furnish such Performance Guarantees, Temporary Certificate of Occupancy Guarantees, Safety and Stabilization Guarantees, Maintenance Guarantees, Inspection Fees and such other Guarantees or fees as may be required pursuant to the Municipal Land Use Law and the Ordinances of this Municipality for the purpose of assuring the installation and maintenance of on-tract/off-tract and private site improvements.

6) No site work shall be commenced or plans signed or released or any work performed with respect to this approval until such time as all conditions of the approval have been satisfied or otherwise waived by the Board.

7) Any and all notes, drawings or other information contained on any approved plans shall be conditions of this approval.

8) Nothing herein shall excuse compliance by the Applicant with any and all other requirements of this municipality or any other governmental entity. This approval is conditioned

upon compliance by the Applicant will all Ordinances and Regulations of this Municipality.

9) In the event any de minimis exception has been granted from the Residential Site Improvement Standards Regulations in connection with this application, a copy of this resolution shall be sent to the New Jersey Department of Community Affairs, Division of Codes and Standards, 101 South Board Street, CN 802, Trenton, New Jersey 08625-0802 within thirty (30) days of the date hereof. Said copy of this resolution shall be clearly marked on its face with the words "SITE IMPROVEMENT EXCEPTIONS".

10) In the event that the Applicant and the approving authority have agreed that exceeding a standard of the Residential Site Improvement Standards is desirable under the specific circumstances of the proposed development, such Agreement to Exceed RSIS Standards shall be placed, in writing, by the developer and transmitted forthwith to the New Jersey Department of Community Affairs, Division of Codes and Standards, 101 South Broad Street, CN 802, Trenton, New Jersey 08625-0802.

11) The Applicant shall comply with the contribution requirements of the Municipal Affordable Housing Fund as applicable to this application.

12) In the event that this Application involves a subdivision or site plan, such subdivision or site plan shall expire at the conclusion of the period of protection from zoning changes provided for in N.J.S.A. 40:55D-49 or

40:55D-52.a, as applicable, and in no event shall extend beyond the fifth anniversary of the date of adoption of this resolution.

13) In the event that this approval involves the approval of a subdivision, the Applicant shall provide to the Board Engineer and attorney for review and approval, deeds for each of the lots created and shall file such deeds simultaneously with the recording of any subdivision plat.

14) All special conditions shall be included as notes on the plans.

15) All general and special conditions set forth in this Resolution shall be placed as notes on the approved plans as a Resolution compliance requirement.

16) The Applicant shall comply with the requirements of the Municipal Ordinances with respect to its Affordable Housing obligation by either providing the required affordable housing on-site, providing affordable housing off-site or making a contribution of an Affordable Housing fee pursuant to the applicable Municipal Ordinances. This approval is subject to the Applicant paying all applicable fees, including any fee due and owing to the Municipality's Affordable Housing Trust Fund.

Affordable units in inclusionary developments shall have at least 50% low income units (of which at least 13% are very low income). The remaining affordable units shall be moderate income units. The bedroom distribution for

affordable units shall be a minimum of 20% three-bedroom units and a maximum of 20% one- bedroom units.

17) This Resolution does not constitute a permit for the construction of the approved improvements. The Applicant shall be responsible for obtaining any and all permits and approvals required prior to the commencement of any development activities including, but not limited to, N.J.D.O.T., N.J.D.E.P., Monmouth County Planning Board, Freehold Soil Conservation District, Regional and/or Municipal Utility Authority approval, in addition to any and all building and construction permits, required by the Municipality. All work performed shall be in accordance with, and shall not deviate from, the approved plans and all applicable Federal, State, County and Local laws, rules and regulations.

18) As an essential and non-severable condition of this approval, the Applicant shall comply with all Mount Laurel obligations and shall comply with the Municipality's approved Housing Element and Fair Share Plan including but not limited to, any associated implementing Ordinances.

19) The scope of the review of this application is necessarily limited to planning, zoning and land use review of the site as compared to the requirements of the Municipality. The grant of this approval and of any permit or approval in connection therewith shall not constitute a representation, guarantee or warranty of any kind or nature by the Municipality or by any Municipal official or

employee thereof with respect to the practicability or safety of any structure, use or other plan proposed and shall create no liability upon or cause of action against the Board, the Municipality or any officials or employees of the Municipality for any damage or injury that result from the construction of the improvements for which this Zoning approval is granted.

SPECIAL CONDITIONS -

- 1) The variance relief granted in connection with this application is as follows:

Building coverage of 14.6% where 12% is permitted, and
Impervious coverage of 31.3% where 30% is permitted;

- 2) Prior to the issuance of construction permits the Applicant shall provide a report from a qualified Soils Engineer with soil borings and structural calculations to be reviewed and approved by the Planning Board Engineer confirming that the proposed improvements will not have adverse impacts upon the physical integrity of the steep slope of the property.

- 3) The foundation construction on the property shall be accomplished through the use of hand augers three feet deep with isolated footings and without the use of machinery such as back hoes and the like in order to minimize any adverse impact to the steep slope 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. MCGOLDRICK

SECONDED BY: MR. NEFF

ROLL CALL:

YES: MR. DOUGHERTY, MR. HAWLEY, MR. CACCAMO, MR. MCGODLRICK, MR. NEFF, MR. COLANGELO

NO: NONE

ABSTAIN: NONE

ABSENT: MR. PEPE, MRS. MURRAY



**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 January 7, 2021.



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