

**IN THE MATTER OF
APPLICATION NO. PB21-09
OF SALVATORE MARTELLI
BLOCK 8 LOT 31**

**RESOLUTION GRANTING
VARIANCE APPROVAL**

WHEREAS, SALVATORE MARTELLI, hereinafter the "Applicant", has proposed the development of property located at 8 Belvidere Road, in the Borough of Atlantic Highlands, County of Monmouth, and State of New Jersey which property is further known and designated as Block 8, Lot 31 on the Tax Map of the Borough of Atlantic Highlands; and

WHEREAS, the Applicant has applied to the Planning Board of Atlantic Highlands for Variance approval to permit the construction of a second story to an existing detached garage resulting in an accessory building height of two stories where one story is permitted with a height of 22.7 feet where 16 feet is permitted and expanding an existing non-conforming detached garage in a front yard area. The foregoing is Contrary to the provisions of Chapter 150, Article V, Section 150-29 and Article VII, Section 150-49 of the Development Regulations of the Borough of Atlantic Highlands; and

WHEREAS, the subject property is located in the R-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 November 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 Zoning Denial of Zoning Officer Michelle Clark, dated April 20, 2021, marked as Exhibit A-1 in evidence.

1.2 Application of Salvatore Martelli, dated May 5, 2021, marked as Exhibit A-2 in evidence.

1.3 Record Drawing prepared by KF2T Professional Land Surveyors, dated February 2, 2020 revised July 6, 2020, marked as Exhibit A-3 in evidence.

1.4 Architectural Elevation & Floor Plans prepared by Michael James Monroe, dated June 26, 2017 revised April 5, 2021, marked as Exhibit A-4 in evidence.

1.5 Review #1 of CME Associates, dated June 24, 2021, marked as Exhibit A-5 in evidence.

1.6 Report of CME Associates, dated September 11, 2021, marked as Exhibit A-6 in evidence.

1.7 Letter from Architect Michael James Monroe to Planning Board Engineer Rohmeyer with floor area calculations and 6 photographs of subject property, marked as Exhibit A-7 in evidence.

1.8 Series of 5 photographs of subject property from various viewpoints, marked as Exhibit A-8 a-e in evidence.

1.9 Pool Plot Grading Plan, prepared by Eastpoint Engineering, LLC dated April 21, 2021 revised September 2, 2021, marked as Exhibit A-9 in evidence.

2. The premises in question are located at 8 Belvidere Road, in the Borough of Atlantic Highlands, County of Monmouth and State of New Jersey which property is further known and designated as block 8, lot 31 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 subject property has approximate dimensions of 100.00 ft. x 42.68 ft. x 417.00 ft. x 81.26 ft. x 491.00 ft. and is substantially an elongated rectangle in shape with frontage on Belvidere Road. The lot has an approximate area of 38,403 square feet (0.88 acres). The property is presently developed with an existing two-story single-family dwelling, covered front porch, detached garage, gravel driveway, rear slate and concrete patio, retaining walls, first and second floor decks, walkways and other ancillary improvements. The existing two car garage

is non-conforming as it is located in the front yard area. The Applicant proposes to expand the existing detached garage placing an addition on top of the structure to provide attic/storage space. The proposed improvements will require Variances to expand the existing non-conforming structure and to create an accessory structure with two stories where one story is permitted with a height of 22.7 feet where 16 feet is permitted. Existing non-conforming elements will be continued which do not require Variance relief including a lot shape diameter of 62 +/- where 65 feet is required, building coverage of 13.8% where 12% is permitted and parking on a mulched driveway where such parking is not permitted on lawns or other unimproved areas.

5. The Applicant presented the testimony of property owner Salvatore Martelli and licensed Architect Michael James Monroe. They provided testimony that the Applicant purchased the subject property approximately three years ago and has proceeded to renovate the existing residence. The Applicant also wishes to renovate the existing 24 x 24 foot two car garage by increasing height to provide for attic/storage space. Mr. Monroe testified that this is an existing structure and that the proposed addition will improve its structural integrity and provide for new architectural amenities that will match the existing structure and better fit the streetscape. The building footprint will not be increased.

The Applicant presented photographs of the existing conditions of the property including the existing garage which the Planning Board finds has an outdated appearance which is inconsistent architecturally with the existing residence. The

Applicant also provided a photograph of the property with the proposed improvements superimposed, which demonstrates that the proposed garage will have a superior appearance architecturally that will be consistent with the existing residence and provide for a pleasing aesthetic appearance.

6. Mr. Monroe testified that there will be no horizontal expansion of the building, there will be no wall removals and no exterior disturbance to the property resulting from the proposed construction as the building will not be expanded outside of its existing footprint. The upstairs area will not be habitable and will have electric only and be used only for storage. There will be no plumbing, heating or air conditioning. Landscaping around the garage will match that around the existing residence. Mr. Monroe also advised that there will be no tree removal nor any change in stormwater characteristics as the roof area will be the same and water will flow to the same area as it does currently. He advised that the existing gutter downspouts will be in the same location and the Applicant agreed to add a rain barrel to further reduce stormwater impacts. Both downspouts will be aligned to discharge to the front toward the mulched area in front of the garage doors which is the existing condition.

7. The Planning Board finds that the Applicant has satisfied the positive criteria for the grant of the requested Variance relief. The garage is an existing structure which has been in place for a significant period of time. Thus, it has set character of the area and it would impose an inappropriate hardship on the Applicant to require the garage to be moved to a conforming location. The Planning Board finds that the grant of

the requested Variance relief will promote the purposes of the Municipal Land Use Law pursuant to N.J.S.A. 40:55D-2.i. as it will promote a more desirable and visual environment through this creative development technique of renovating the garage to harmonize with the existing residence and to improve the visual appearance of this outdated structure with pleasing architectural elements.

8. The Planning Board further 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 proposed structure will not be increased in building footprint, but only in height to provide for attic/storage. The improvements have been designed by a licensed professional architect and the Planning Board finds from the Exhibits submitted, including the architectural plan and the super-imposed photograph, that this will be a pleasing aesthetic improvement and will provide an improved aesthetic appearance from the streetscape as well as from neighboring properties. The Planning Board finds that the increase in height of 6.7 feet will have di minimis impacts upon light, air, and open space which detriment will be substantially outweighed by the improved, visual appearance of the structure. In addition, the Planning Board notes the Applicant's testimony that there will be no increase in stormwater runoff and that adding the rain barrel will actually improve stormwater management from the property and reduce impacts upon neighboring properties. Therefore, there will be no substantial detriment to the public good flowing from the grant of the requested Variance relief.

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. As noted previously herein, the proposed improvements will result in a more pleasing aesthetic appearance to the subject property. Moreover, there will be no significant zoning impacts as this is an existing building which previously set the character of this area of Belvidere Road. The Planning Board further notes the testimony of the Applicant's Architect that existing structure is below street grade such that the increase in height will have di minimis impacts.

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

The Planning Board further finds that all property owners within 200 feet of the premises in question were given proper Notice of the hearing of this application and were provided with an opportunity to present evidence in favor of, or in opposition to the appeal.

NOW THEREFORE, BE IT RESOLVED by the Planning Board of the Borough of Atlantic Highlands on this 2nd day of December 2021, that the Application of **SALVATORE MARTELLI** 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.

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 approvals granted in connection with this application are as follows:

a. Variance to permit expansion of a non-conforming detached garage both as to use and volume.

b. Variance to permit accessory garage structure with two stories where one story is permitted.

c. Variance to permit height of accessory garage structure of 22.7 feet where 16 feet is permitted.

2) The second floor of the garage shall have electric only and will be used for storage and not as habitable area.

3) There will be no change to stormwater management. The gutter downspouts shall be placed in the same location as existing and a rain barrel will be added to reduce stormwater discharge impacts.

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. KRUPINSKI

SECONDED BY: MRS. MURRAY

ROLL CALL:

YES: MCGOLDRICK, NEFF, MURRAY, COLANGELO, JOSKO, KRUPINSKI

NO: NONE

ABSTAIN: NONE

ABSENT: DOUGHERTY, CROWLEY, HAWLEY, CACCAMO, CROWTHER, CURRY



**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 December 2, 2021.



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