

**IN THE MATTER OF
APPLICATION NO. PB 21-12
OF SARKIS & DIROUHI KRIKORIAN
BLOCK 117 LOTS 10, 11 & 12**

**RESOLUTION GRANTING
VARIANCE AND SITE PLAN
APPROVAL**

WHEREAS, SARKIS KRIKORIAN & DIROUHI KRIKORIAN, hereinafter the "Applicant", has proposed the development of property located at 49-51 First Avenue, in the Borough of Atlantic Highlands, County of Monmouth, and State of New Jersey which property is further known and designated as Block 117, Lots 10, 11 & 12 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 minor site plan approval with Variance relief to permit 2-bedroom dwelling units with a floor area of 670 square feet where 900 square feet is required. Contrary to the provisions of Chapter 150, Article VI, Section 150-42.A(4)(b) of the Development Regulations of the Borough of Atlantic Highlands; and

WHEREAS, the subject property is located in the HBD Historic Business District Zone District of the Borough of Atlantic Highlands and the existing and proposed uses are a permitted conditional use in the zone; and

WHEREAS, the Applicant appeared before the Planning Board of the Borough of Atlantic Highlands on October 7, 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 May 25, 2021, marked as Exhibit A-1 in evidence.

1.2 Application of Sarkis & Dirouhi Krikorian, dated February 2, 2021, marked as Exhibit A-2 in evidence.

1.3 Location Survey prepared by Richard E. Stockton & Associates, dated August 3, 2021, marked as Exhibit A-3 in evidence.

1.4 Correspondence from Attorney Kevin Kennedy, dated August 6, 2021, marked as Exhibit A-4 in evidence.

1.5 Narrative of Intent, marked as exhibit A-5 in evidence.

1.6 Floor Plan prepared by Sidrane Group, dated November 3, 2000, marked as Exhibit A-6 in evidence.

1.7 Review #1 of CME Associates, dated September 17, 2021, marked as Exhibit A-7 in evidence.

2. The premises in question are located at 49-50 First Avenue, in the Borough of Atlantic Highlands, County of Monmouth and State of New Jersey, which property is further known and designated as Block 117, Lots 10, 11 & 12 on the Tax Map of the Borough of Atlantic Highlands.

3. The subject property is located in the HBD Historic Business District Zone and hotels and restaurants are a permitted use in the zone.

4. The property in question has approximate dimensions of 141.80 ft. x 95.00 ft. x 68.93 ft. x 23.70 ft. x 8.20 ft. x 23.00 ft. x 36.37 ft. x 38.00 ft. x 26.00 ft. x 30.00 ft. x 4.00 ft. x 27.00 ft and is an irregularly shaped lot with an area of 12,388.6 square feet (0.284 acres).

5. The subject property is presently developed with the existing Blue Bay Inn Hotel consisting of 27 units (23 rooms/suites and 4 apartment style units) along with 2 restaurants located on the first floor of the Inn.

6. The Applicant proposes to convert eight (8) of the existing rooms into four (4) two-room suites with kitchenettes. Other than the interior modifications to the building, no other improvements are proposed within this application.

7. The Applicant proposes to renovate the interior of the existing structure which will include converting eight existing rooms into four two-room suites with kitchenettes. Section 150-21 of the Development Regulations of the Borough of Atlantic Highlands provides that in all zones for all proposed uses other than exempt development site plan approval shall be required prior to the issuance of a development permit or building permit for the commencement of alteration, repair, remodeling or conversion of any building or structure. Based on Section 150-21 site plan approval is required for the proposed renovations unless the work qualifies as exempt development. The only portion of the definition "exempt development" in Section 150-6 of the Ordinance that could qualify for exemption from site plan approval is any change in occupancy which is not a change in use. However, the definition of "change in use" in Section 150-6 provides that the change of use includes any increase in the number of units in a structure which will result in three or more total residential dwelling units. Section 150-6 defines "dwelling unit" as a building or a part thereof having cooking, sleeping and sanitary facilities or are occupied by one family and which is entirely separated from any other dwelling unit in the building by vertical walls or horizontal floors. In this case the four new units with kitchenettes are dwelling units. Thus, site plan approval is required.

8. In addition to the foregoing, a Conditional Use Variance is required as the two-bedroom dwelling units will have an area of 670 square feet where 900 square feet are required. This is a violation of the Conditional Use requirements and therefore a Variance is necessary.

8. The Planning board finds that the Applicant has satisfied the positive and negative criteria for the grant of the requested Variance relief. The Planning Board finds that, notwithstanding the undersized area of the units, they are not intended as year-round dwelling units but rather are designed for transient guests on a shorter-term basis. The Applicant presented testimony that all rooms in the hotel will continue to be for transient guests. There will be no long-term leases and specifically no leases for one year or greater. Therefore, the Planning Board finds that the proposed use is for hotel use rather than long term residential use and that these existing facilities can accommodate the deviation for conditional use standards and meet the positive criteria for the grant of Variance relief.

9. The Planning Board further finds that the application meets the negative criteria for the grant of Variance relief. This is an existing hotel that has been in place for approximately 20 years without negative impacts. The proposed renovations will not change those circumstances which remain the same. Since there will be no exterior renovations there will be no impact to the neighborhood or the surrounding areas as this will simply continue existing conditions. Therefore, there will be no substantial detriment to the public good.

10. 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 there will be no change in the zoning and existing conditions will continue. The use is permitted and has set the character of the area for the last 20 years. Therefore there will be no impact upon the zone plan or zoning ordinance.

11. The Planning Board further finds that the Applicant has submitted a site plan and such other materials to demonstrate compliance with the zoning ordinance and entitlement to site plan approval as there will be no impacts beyond existing conditions for the property.

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 has demonstrated, compliance with the requirements for site plan approval.

13. The Planning Board further finds that all property owners within 200 ft. of the premises in question were given proper notice of the hearing of this application and were provided with an opportunity to present testimony in 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 4th day of November, 2021 that the Application of **SARKIS & DIROUHI KROKORIAN** 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 relief granted in connection with this application is a Conditional Use Variance for a non-conforming property to be renovated in accordance with the plans prepared by Robert Algarin, dated April 12 , 2021 and marked as Exhibit A-4 in evidence.
- 2) Minor site plan approval to permit the proposed renovations without the requirement of exterior improvements.

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 the variance(s) within the required time period pursuant to Chapter 150, Article III, Section 150-9.J. the variance(s) 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. PEPE
SECONDED BY: MR. KRUPINSKI
ROLL CALL:
YES: MR. CACCAMO, MR. NEFF, MR. PEPE, MRS. MURRAY,
MR. COLANGELO, MR. CROWTHER, MR. JOSKO, MR. KRUPINSKI,
MR. CURRY
NO: NONE
ABSTAIN: NONE
ABSENT: MR. CROWLEY, MR. HAWLEY, MR. McGOLDRICK


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 November 4, 2021.


Secretary, Planning Board
Borough of Atlantic Highlands