

**IN THE MATTER OF  
APPLICATION NO. PB21-16  
OF LYNN SNYDER & ED OKUNIEWICZ  
BLOCK 12 LOT 4**

**RESOLUTION GRANTING  
VARIANCE APPROVAL**

**WHEREAS, LYNN SNYDER & ED OKUNIEWICZ,** hereinafter the "Applicant", has proposed the development of property located at 231 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 12, Lot 4 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 approval to construct a 165 square foot covered porch with a 2 foot by 4 foot concrete pad for a generator along the northerly side of the existing dwelling requiring a Variance for Building coverage of 15.3% where 12% is permitted and 13.9% exists (Section 150-29(A)(2)(Exhibit 5-2)), impervious lot coverage of 38.5% where 30% is permitted and 37% exists (Section 150-29)(A)(2)(Exhibit 5-2)), permitting the alteration of a non-conforming building increasing the degree of non-conformance (Section 150-49.G), maximum lot coverage in steep slope area of 5,694 square feet where 4,028 square feet is permitted and 5,521 square feet exists (Section 150 78.E) and maximum impervious area in a steep slope area of 5,694 square feet where 4,707 square feet is permitted and 5,521 square feet exists (Section 150-78.E). Contrary to the provisions of Chapter 150, Article V, Section 150-29, Article VII, Section 150-49 and 150-78 respectively 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 Review #1 of CME Associates, dated October 19, 2021, marked as Exhibit A-1 in evidence.

1.2 Architectural Plans & Elevations, prepared by Applicant, dated September 29, 2021, marked as Exhibit A-2 in evidence.

1.3 Agreement permitting installation of landscaping wall in County right-of-way, dated September 7, 2000, marked as Exhibit A-3 in evidence.

1.4 Site Photograph, marked as Exhibit A-4 in evidence.

1.5 Variance Application dated October 14, 2021, marked as Exhibit A-5 in evidence.

1.6 Boundary & Topographic Survey, prepared by PDS Professional Design Surveying, Inc., dated April 7, 2008, marked as Exhibit A-6 in evidence.

1.7 Steep Slope Review #1 of CME Associates, dated October 14, 2021, marked as Exhibit A-7 in evidence.

2. The premises in question are located at 231 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 12, lot 4 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 on lots with an area of 30,000 square feet or greater.

4. The subject property is an undersized lot with an area of 14,805 square feet with approximate dimensions of 61.96 ft. x 48.13 ft. x 166.86 ft. x 100.00 ft. x 124.10 ft. and is a rectangularly shaped property with frontage on Ocean Boulevard.

The property is presently developed with an existing two-story residential dwelling with a detached wood shed, wood deck, paver walkways and a gravel driveway with a concrete apron along with concrete block and stone walls. The Applicant proposes to construct a 165 square foot covered front porch with a 2 foot by 4 foot concrete pad for a generator along the northerly side of the existing dwelling. The proposed improvements require Variance relief for building coverage of 15.3% where 12% is permitted and 13.9% exists, a maximum impervious coverage of 38.5% where 30% is permitted and 37% exists. Alteration of a non-conforming building which will increase the non-conformity, a maximum lot coverage in the steep slope area of 5,694 square feet where 4,028 square feet is permitted and 5,521 square feet exists. A maximum impervious coverage in a steep slope area of 5,694 square feet where 4,707 square feet is permitted and 5,521 square feet exists. There are also several existing non-conformities which will continue but do not require additional Variance relief, they include a lot area of 14,805 square feet where 30,000 square feet is required, a minimum side yard setback 9.9 feet where 15 feet is required, a minimum rear yard setback for an accessory structure of 1 foot where 5 feet is required, and maximum useable floor area of 0.249 where 0.175 is permitted and existing shed with an area of 200 square feet where 150 square feet is permitted.

5. The Applicant presented the testimony of Edward Okuniewicz who testified that the Applicant would like to have a covered front porch in order to protect persons coming to and from the property during inclement weather. He testified that this is a modest 1,800 square foot home with a 500 square foot garage and that the Variances for building coverage and

impervious coverages is driven by the undersized nature of the lot and its proximity to a steep sloped area along its easterly property line. Based upon the boundary and topographic surveys submitted by the Applicant, the Planning Board finds that the bulk of the property is relatively flat. The Applicant testified that the survey remains accurate and that there will be no changes in the grade of the property so that there will be no significant stormwater impacts resulting from the proposed porch addition. The Applicant further testified that there will be no tree removal required in connection with the application.

6. The Planning Board notes that this front porch amenity cannot be provided without the requirement for Variance relief since it will increase existing non-conformities with respect to building coverage and impervious coverage. The Planning Board further finds that the proposed 11 foot by 15 foot covered porch is a modest amenity that is desirable for homes located in the residential Zone Districts including the R-3 Zone.

The Planning Board finds that the Applicant has satisfied the positive criteria for the grant of the requested Variance relief. The Subject property is an undersized lot of record which has current improvements which have maximized what is permitted without the requirement of variance relief. Consequently, any addition to the subject property will require Variance relief for building coverage, impervious coverage and steep slope area coverages as well as increasing the degree of non-conformance. Based on the foregoing the Planning Board finds that due to the existing conditions and improvements on the property Variance relief will be required for any additions to the residence. Therefore, 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 Atlantic Highlands Development Regulations would result in peculiar and exceptional practical difficulties to and exceptional and undue hardship upon the Applicant as it would prevent any additions to be placed on the structure. Therefore, a hardship does exist with respect to this property.

7. 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 proposed covered front porch is a desirable amenity for residential homes in the R-3 Zone on order to provide shelter for persons entering and leaving the property during inclement weather. The proposed front porch and the generator pad are modest in size and will have little visual impact upon the streetscape or surrounding properties. They are not violating any of the conventional yard setbacks and therefore will not have an overly imposing appearance or impact upon adjacent properties. Therefore, any impacts upon the surrounding properties and landscape are insubstantial.

8. 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 this is a modest addition to an existing residence and will provide an amenity that is consistent with amenities anticipated for residential homes in the R-3 Zone District. The deviation proposed is minimal. The Planning Board has reviewed the photograph of the subject property with

the superimposed covered porch and finds it to be a pleasing aesthetic improvement to the property that will not have any adverse impacts upon the Zone Plan and the Zoning Ordinance.

9. As a result 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.

10. 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 in favor of, or in opposition to the appeal. One neighbor did appear who supported the application as being a positive improvement to the area.

**NOW THEREFORE, BE IT RESOLVED** by the Planning Board of the Borough of Atlantic Highlands on this 2<sup>nd</sup> day of December 2021, that the Application of **LYNN SNYDER & ED OKUNIEWICZ** 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 for Building coverage of 15.3% where 12% is permitted and 13.9% exists (Section 150-29(A)(2)(Exhibit 5-2))

b. Variance for Impervious lot coverage of 38.5% where 30% is permitted and 37% exists (Section 150-29)(A)(2)(Exhibit 5-2))

c. Variance permitting the alteration of a non-conforming building increasing the degree of non-conformance (Section 150-49.G)

d. Variance for Maximum lot coverage in steep slope area of 5,694 square feet where 4,028 square feet is permitted and 5,521 square feet exists (Section 150-78.E)

e. Variance for Maximum impervious area in a steep slope area of 5,694 square feet where 4,707 square feet is permitted and 5,521 square feet exists (Section 150-78.E)

2) The proposed covered porch will not be enclosed and will remain as an open air porch.

**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. JOSKO

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**