

**IN THE MATTER OF  
APPLICATION NO. PB23-01  
OF KERRI KENNEDY & PAUL WRIGHT  
BLOCK 6 LOT 1.02**

**RESOLUTION GRANTING  
VARIANCE APPROVAL**

**WHEREAS, KERRI KENNEDY & PAUL WRIGHT**, hereinafter the "Applicant", has proposed the development of property located at 3 Beverout Place, 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 1.02 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 Variance approval to permit the construction of a second story addition, new inground swimming pool, enlarged rear patio and new front walkway requiring Variances for the following:

1. Accessory side yard setback of pool patio of 6.56 feet where 10 feet is required (Section 150-29.A (2) (Exhibit 5-2)).
2. Building coverage of 18.81% where 12% is permitted (Section 150-29.A (2) (Exhibit 5-2)).
3. Lot coverage of 38.69% where 30% is permitted (Section 150-29.A (2) (Exhibit 5-2)).
4. Floor area ratio of 0.362 where 0.175 is permitted (Section 150-29.A (2) (Exhibit 5-2)).
5. Lot coverage and steep slope area of 4,579.1 square feet where 3,334 square feet is permitted (Section 150-78.E).
6. Impervious coverage of 3,955.5 square feet where 3,884 square feet is permitted (Section 150-78.E).

The property will also continue the following existing nonconforming elements:

1. Lot area 11,836 square feet where 30,000 square feet is required (Section 150-29.A (2) (Exhibit 5-2)).
2. Lot shape diameter of 62.01 feet where 65 feet is required (Section 150-29.A (2) (Exhibit 5-2)).

3. Side yard setback of 10.1 feet where 15 feet is required (Section 150-29.A (2) (Exhibit 5-2)).
4. Combined side yard setback of 24.12 feet where 35 feet is required (Section 150-29.A (2) (Exhibit 5-2)).
5. Rear yard setback of 23.1 feet where 30 feet is required (Section 150-29.A (2) (Exhibit 5-2)); 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 October 2, 2023, 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 for Variance of Kerri Kennedy & Paul Wright, dated January 9, 2023, marked as Exhibit A-1 in evidence.

1.2 Addendum to Application, undated, marked as Exhibit A-2 in evidence.

1.3 Location & Topographic Survey prepared by Land Control Services, LLC, dated March 17, 2021, marked as Exhibit A-3 in evidence.

1.4 Development Plan Checklist, dated January 9, 2023, marked as Exhibit A-4 in evidence.

1.5 Zoning Review of Zoning Officer Michelle Clark, dated March 15, 2021, marked as Exhibit A-5 in evidence.

1.6 Plot Plan/Steep Slope Analysis, prepared by Insite Engineering, dated December 9, 2022, marked as Exhibit A-6 in evidence.

1.7 Site Plan with Architectural Elevation & Floor Plans, prepared by Anthony Busch, Jr., Architect, dated May 8, 2021 submitted May 12, 2022, marked as Exhibit A-7 in evidence.

1.8 Review #1 of CME Associates, dated March 6, 2023, marked as Exhibit A-8 in evidence.

1.9 Correspondence from Insite Engineering, dated July 5, 2023, marked as Exhibit A-9 in evidence.

1.10 Plot Plan and Construction Plan, prepared by Insite Engineering, dated December 9, 2022 revised June 30, 2023, marked as Exhibit A-10 in evidence.

1.11 Review #2 of CME Associates, dated September 12, 2023, marked as Exhibit A-11 in evidence.

1.12 Series of 6 Site Photos with front, side & rear views of subject property, marked as Exhibit A-12 in evidence.

1.13 Site Rendering in Color, prepared by Insite Engineering, dated September 9, 2023, marked as Exhibit A-13 in evidence.

2. The premises in question are located at 3 Beverout Place, 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 1.02 on the Tax Map of the Borough of Atlantic Highlands.

3. The subject property is located in the R-13 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 101.85 ft. x 123.56 ft. x 100.51 ft. x 112.45 ft. and is a quadrilateral shaped property with an area of 11,836 square feet (0.2717 acres). The lot is a substantially undersized parcel resulting in a significant number of existing nonconforming elements. The property is presently developed with a one story residential dwelling with attached garage, a patio, decks and associated driveways and walkways. The Applicants were represented by Mark Aikins, Esq. who presented the testimony of Anthony Busch, a licensed Architect in the State of New Jersey, Douglas Clelland, a licensed professional Engineer in the State of New Jersey and Barbara Ehlen, a licensed professional Planner in the State of New Jersey. They presented testimony that the Applicant desires to construct a second story addition, a new inground swimming pool, an enlarged rear patio and a new front walkway. Mr. Busch described the existing conditions and proposed improvements. He noted that the residence currently has three bedrooms and will have the same number of bedrooms when the addition is completed. With a minor exception of the bump out at the entrance the proposed addition will be entirely over the existing building footprint. He noted that the proposed improvements will provide adequate parking for vehicles in accordance with RSIS requirements.

6. Mr. Clelland testified that the required Variance relief is principally a result of the undersized lot area which cannot accommodate a reasonably sized home without Variance relief.

He noted that the existing nonconforming elements along with the request for Variance relief are driven by the undersized nature of the lot. He further noted that the Variances needed to develop the subject property are the result of the undersized lot condition coupled with the location of the existing structures on the property. He further noted that the deviation for steep slope lot coverage is largely due to the deck structure that does not significantly impact the slope area. He testified that proper stormwater was handled by sheet flow from the roof across the property. The proposed improvements will provide for leader downspouts directing water to a sump drain. Mr. Clelland opined that the proposed improvements will have minimal steep slope disturbance. He also noted that the pool location has been placed in the only area possible due to the existing septic system, pump tank, seepage pit and positioning of the residence. He noted that front downspouts will be added to accommodate overflows. He advised the Board that he had not performed a geotechnical study as the stormwater impacts of the proposed improvements do not impact soils. Nevertheless, the Applicant agreed to provide a soils report and soil borings along with a geotechnical report for review by the board's Engineers, CME Associates, as may be required. He further addressed review number two of CME Associates particularly addressing paragraph eight subparagraphs "d" through "t" under section b, He confirmed that the drawing will comply with the technical zoning requirements for maximum height and number of stories. As to paragraph "e", he confirmed that 50% of the basement was included in the FAR calculations. As to paragraph "f", he clarified that there will be only three bedrooms and noted that as a condition of approval one of the first-floor bedrooms will have a closet removed and will be utilized as an office only. With respect to paragraph "g", he reviewed the impacts for stormwater discharge and found that the proposal improves the existing runoff conditions directing pool and runoff to the right-of-way. As to paragraph "h", he confirmed that the slope will maintain its stability. With respect to paragraph "i", he described the proposed channel drain along the perimeter of the pool patio to collect surface runoff. With respect to paragraph "j", the Applicant confirmed that there will be no removal of trees over 6-inch caliber. As to paragraph "k", he noted the conditions previously referenced herein that the proposed pool cannot be located elsewhere on the property. With respect to paragraph "l", the Applicant agreed to screen the pool equipment. With respect to paragraph "m", he confirmed adequate

distancing between the pool and existing septic system and agreed to provide additional information verifying that the pool distance from the septic systems on lots 2 and 2.01 also are adequately spaced so as not to have adverse impacts upon the septic system. As to paragraph “n”, he noted that the fencing will comply with all codes and agreed to comply with those matters referenced in paragraphs o, p, q, r, s & t.

7. Planner, Barbara Ehlen testified that the subject property is the only home facing Beverout Place. The sidelines of the subject property actually function as rear lot lines for adjacent lots 1.01 and 1.03 as those lots are oriented toward East Highland Avenue and Ocean Boulevard frontages respectively.

8. Ms. Ehlen opined that the proposed improvements meet the standards of the Coventry Square case and that the floor area resulting from these additions will not result in the property having an appearance of being a “mcmansion” and that the home, as a three bedroom residence, will continue to be a three bedroom residence and therefore the property can accommodate the additional floor area ratio. She testified that essentially, the Variances required are driven by the undersized nature of the lot coupled with the location of the existing improvements and that a hardship is associated with this property due to its conditions. She further testified that it is her opinion that the proposed improvements do promote the purposes of the Municipal Land Use Law and particularly N.J.S.A. 40:55D-2.g. by providing sufficient space in an appropriate location for this residential use.

9. Ms. Ehlen further testified that the proposed improvements will not result in any substantial detriment to the public good. Instead she found that it will result in a home consistent in size and scope with other homes in the area.

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.

11. 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 testimony in support of, or in opposition to the appeal. Two neighbors 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 November, 2023, that the Application of **KERRI KENNEDY & PAUL WRIGHT** 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 Applicant shall add front downspout overflows to the plans.

2) Applicant shall provide a soils report and soil borings to the Planning Board Engineer for approval prior to the issuance of construction permits.

3) The Applicant shall provide a geotechnical report for review and approval by the Planning Board Engineer prior to the issuance of permits.

4) The Applicant will be removing the closet in the first-floor office so that it will not be considered as a bedroom to retain the three bedroom home.

5) The Applicant shall verify the distance from the proposed pool to the septic systems on lots 2 and 2.01.

**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. Hawley

SECONDED BY: Mr. Josko

ROLL CALL:

YES: Mr. Hawley, Mr. Josko, Mr. Krupinski, Ms. Walter, Chair McGoldrick

NO: None

ABSTAIN: None

INELIGIBLE: Councilman Dougherty, Ms. Majewski, Vice Chair Neff, Dr. Zuzulock

ABSENT: Mr. Boms, Mr. Caccamo, Mr. Kurdes, Mr. Berth



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**John McGoldrick, Chair**  
**Borough of Atlantic Highlands Planning Board**

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 2, 2023.



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

