



**Borough of Atlantic Highlands Planning Board Meeting Minutes
Borough Hall, 100 First Ave., Atlantic Highlands, NJ
April 4, 2024**

WORKSHOP MEETING: 7:00pm

Roll Call:

PRESENT: Mr. Caccamo, Mr. Hawley, Mr. Josko, Ms. Majewski, Mr. Neff, Vice Chair Krupinski, Dr. Zuzulock, Ms. Walter, Mr. Bearmore

ABSENT: Ms.DePasca, Councilman Dougherty, Chair McGoldrick, Mr. Kurdes

Also Present: Board Attorney Michael Steib, Esq., Board Engineer Drew Pavlick, Jessica McLane to operate the Zoom technology for those seeking to attend remotely, and Board Secretary Nancy Tran.

Acting Chair Krupinski called the meeting to order at 7:00pm, stated that the meeting is being held in compliance with the Open Public Meetings Act, and read the meeting notice. He also stated that formal action would be taken.

The Board took a moment of silence and did pledge of allegiance.

Public Comment: There were no public comment.

Litigation: Mr. Steib stated that there were no pending litigation.

Other Business:

Mr. Neff asked the Board if they would support a PBA ad journal again. All agreed. Ms. Tran will coordinate the ad and payments.

Workshop Adjournment

Ms. Majewski made a motion to adjourn workshop and Mr. Neff seconded. All were in favor. None opposed. Workshop adjourned at 7:09pm.

REGULAR MEETING: 7:10pm

Roll Call:

PRESENT: Mr. Caccamo, Mr. Hawley, Mr. Josko, Ms. Majewski, Mr. Neff, Vice Chair Krupinski, Dr. Zuzulock, Ms. Walter, Mr. Bearmore

ABSENT: Ms.DePasca, Councilman Dougherty, Chair McGoldrick, Mr. Kurdes

Also Present: Board Attorney Michael Steib, Esq., Board Engineer Drew Pavlick, Jessica McLane to operate the Zoom technology for those seeking to attend remotely, and Board Secretary Nancy Tran.

Mr. Steib announced Mr. Salvatore Alfieri, attorney for PB22-18: Baker – 170 Ocean Blvd., B17 Ls 8.01 & 8.02, sent an email noting that the applicant understood that the Board may decide to dismiss the application if they were not ready to present today but they are asking the Board to

consider carrying the application to the May meeting. If not, then they will withdraw the application without prejudice. Some Members voiced being OK with carrying the application, some thought no, and some were on the fence. A straw vote was taken to see who were OK with carrying the application with the condition that they re-notice and the majority were in favor of adjourning the application until the May 2nd meeting with the condition that the applicant needs to re-notice.

Mr. Steib stated that the Board did not have jurisdiction to hear PB24-01: Wyrd Witch – 78 First Ave., B97 L10, due to missing certified mail receipts for a few entities on their 200ft list. They will need to re-notice to those who did not receive the notice for the May 2nd meeting.

Mr. Steib asked for clarification from the for PB24-02: Corneliusen-Stoll – 64 Bay Ave., B129 L1 regarding their noticing to a property owner. Mr. Corneliusen ran home to collect his returned postcard receipts as proof.

Approval of March 7, 2024 Meeting Minutes

Motion to approve: Ms. Majewski

Second: Mr. Josko

Ayes: Mr. Josko, Ms. Majewski, Dr. Zuzulock, Ms. Walter, Mr. Bearmore, Acting Chair Krupinski

Nays: None

Abstain: None

Ineligible: Mr. Caccamo, Mr. Hawley, Mr. Neff

Absent: Ms.DePasca, Councilman Dougherty, Chair McGoldrick, Mr. Kurdes

Approval of Attorney Vouchers for February 2024

Motion to approve: Mr. Neff

Second: Dr. Zuzulock

Ayes: Mr. Caccamo, Mr. Hawley, Mr. Josko, Ms. Majewski, Mr. Neff, Dr. Zuzulock, Ms. Walter, Mr. Bearmore, Acting Chair Krupinski

Nays: None

Abstain: None

Absent: Ms.DePasca, Councilman Dougherty, Chair McGoldrick, Mr. Kurdes

Consistency Review: Ordinance 07-2024 – Development Plan Checklist

MUNICIPALITY OF THE BOROUGH OF ATLANTIC HIGHLANDS PLANNING BOARD

CONSISTENCY REPORT PURSUANT TO N.J.S.A. 40:55D-26

WHEREAS, pursuant to N.J.S.A. 40:55D-64, the Governing Body of a Municipality shall refer any proposed zoning ordinance or amendment thereto to its Planning Board prior to hearing on the adoption of such zoning ordinance or amendment; and

WHEREAS, pursuant to N.J.S.A. 40:55D-26, the Planning Board shall make and transmit to the Governing Body a report with respect to such zoning ordinance or amendment thereto including identification of any provisions in the proposed Development Regulation, revision or amendment which are inconsistent with the Master Plan and recommendations concerning these inconsistencies and any other matters as the Board deems appropriate; and

WHEREAS, the Governing Body has submitted to the Planning Board a proposed ordinance amendment entitled, "**ORDINANCE 07-2024, AN ORDINANCE OF THE BOROUGH OF ATLANTIC HIGHLANDS, COUNTY OF MONMOUTH AND STATE OF NEW JERSEY AMENDING ATLANTIC HIGHLANDS DEVELOPMENT PLAN CHECKLIST**" pursuant to the aforesaid statutory requirements; and

WHEREAS, the Planning Board conducted a meeting on **APRIL 4, 2024** 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 Board reviewed and considered the proposed amendments to the Zoning Ordinance to determine their consistency with the Master Plan and Re-Examination Report, the Planning Board does hereby make the following report to the Governing Body of the Municipality:

1. The proposed Development Regulation revision or amendment thereto reviewed is entitled as set forth above.
2. The purpose of the proposed Development Regulation revision or amendment is to:
TO UPDATE THE DEVELOPMENT PLAN CHECKLIST TO CORRECT CERTAIN CLERICAL ERRORS, TO REQUIRE SITE SPECIFIC BORING BASED GEOTECHNICAL ANALYSIS AND STABILITY CALCULATIONS FOR APPLICATIONS WITHIN THE STEEP SLOPE ZONE (R-3) AND TO REQUIRE SUBMISSION OF ANALYSIS OF PARKING AND TRAFFIC AT VARYING LEVELS DETAIL DEPENDENT UPON THE NATURE OF THE APPLICATION.
3. The proposed Development Regulation revision or amendment is

() consistent, () inconsistent, with the Master Plan of the Municipality. The inconsistent provisions are:
4. The Planning Board makes the following recommendations as to such other matters as the Planning Board deems appropriate:

NOW, THEREFORE BE IT RESOLVED by the Planning Board on this **4TH** day of **APRIL, 2024** that the within report be transmitted to the Governing Body of the Municipality forthwith.

Motion to approve: Mr. Neff

Second: Ms. Majewski

Ayes: Mr. Caccamo, Mr. Hawley, Mr. Josko, Ms. Majewski, Mr. Neff, Dr. Zuzulock, Ms. Walter, Mr. Bearmore, Acting Chair Krupinski

Nays: None

Abstain: None

Absent: Ms. DePasca, Councilman Dougherty, Chair McGoldrick, Mr. Kurdes

Resolution for PB23-13: Siclare – 52 East Garfield Ave., B80 L3

**IN THE MATTER OF
APPLICATION NO. PB23-13
OF RENI & NANCY SICLARE
BLOCK 80 LOT 3**

**RESOLUTION GRANTING
VARIANCE APPROVAL**

WHEREAS, RENI & NANCY SICLARE, hereinafter the "Applicant", has proposed the development of property located at 52 Garfield Avenue, in the Borough of Atlantic Highlands, County of Monmouth, and State of New Jersey which property is further known and designated as Block 80, Lot 3 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 construct a two story addition to an existing single family residence which requires Variance approval as the existing lot area is 6,750 square feet where 7,500 square feet is required and pursuant to Section 150-49 (1) a nonconforming lot may not be developed unless the lot conforms with the minimum lot area requirements. In addition, the proposed improvements will result in lot coverage of 59.1% where 50% is the maximum permitted. The proposed addition is contrary to Chapter 150, Article VII, Section 152-49 and Article V, Section 150-29 (A) (2) (Exhibit 5-2) of the Development Regulations of the Borough of Atlantic Highlands; and

WHEREAS, the subject property is located in the R-1 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 March 7, 2024, 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 of Reni & Nancy Siclare, dated December 7, 2023 with checklist, marked as Exhibit A-1 in evidence.

1.2 Architectural Elevation, Floor Plans & Site Plan, prepared by S.O.M.E Architects, dated December 7, 2023, marked as Exhibit A-2 in evidence.

1.3 Survey prepared by Thomas Craig Finnegan, dated September 1, 2023, marked as Exhibit A-3 in evidence.

1.4 Zoning Review of Zoning Officer Michelle Clark, dated November 30, 2023, marked as Exhibit A-4 in evidence.

1.5 Review #1 of CME Associates, dated January 15, 2024, marked as Exhibit A-5 in evidence.

2. The premises in question are located at 52 Garfield Avenue, in the Borough of Atlantic Highlands, County of Monmouth and State of New Jersey which property is further known and designated as block 80, lot 3 on the Tax Map of the Borough of Atlantic Highlands.

3. The subject property is located in the R-1 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 50.00 ft. x 135.00 ft. x 50.00 ft. x 135.00 ft. and is an elongated rectangle in shape with a lot area of 6,750 square feet (0.155 acres). The subject property is presently developed with a two-story residential home with a detached shed, covered patio, wood deck, gravel and sand recreation area and associated driveways and walkways.

5. The subject property has the following existing, nonconforming elements, which will remain that are not exacerbated by the application:

a. Lot area of 6,750 square feet where 7,500 square feet is required (Section 150-29 (A)(2)(Exhibit 5-2)).

b. Lot frontage and width of 50 feet where 75 feet is required (Section 150-29 (A)(2)(Exhibit 5-2)).

c. Lot shape diameter of 20 feet where 50 feet is required (Section 150-29 (A)(2)(Exhibit 5-2)).

d. Front yard setback of 19.6 feet where 20 feet is required (Section 150-29 (A)(2)(Exhibit 5-2)).

e. Accessory side yard setback of 3.2 feet where 5 feet is required (Section 150-29 (A)(2)(Exhibit 5-2)).

f. Accessory rear yard setback of 2.8 feet where 5 feet is required (Section 150-29 (A)(2)(Exhibit 5-2)).

6. The Applicant provided testimony from Reni Siclare, the property owner, and Edward O'Neill, a licensed Architect and Planner in the State of New Jersey whose credentials were accepted by the Planning Board. Mr. Siclare testified that this is an older structure constructed in or about 1908, which has an awkward layout and limited living area. The Applicant desires to construct a two-story addition for a better functioning interior of the home, particularly to remove the existing staircase which is severely out of code and which Mr. O'Neill testified from an architectural standpoint, is a dangerous condition. Mr. O'Neill testified that the proposed addition will be an attractive and functional improvement to the existing residence. The Planning Board agrees with Mr. O'Neill's testimony.

7. Question was raised by the Board Engineer as to whether Variance is necessary for exceeding lot coverage. Mr. O'Neill did not include the gravel and sand surfaced area in his calculations, which indicated that the Variance would not be required. The Planning Board Engineer included that in his calculations indicating that the development would exceed allowable impervious lot coverage requiring a Variance. Mr. Siclare testified that the gravel and sand surface is used as a play area for grandchildren and is a pervious surface. It was agreed that as a condition of approval, the Applicant will confirm with the Board Engineer that the impervious coverage is not being exceeded. Alternatively, if it is determined that the area is impervious, the Applicant can either remove the gravel and sand surface, returning it to a grass area or provide a drywell system to be approved by the Board Engineer to prevent any adverse stormwater runoff impacts from the excessive impervious coverage.

8. The Applicant testified that there will be no tree removal in connection with the proposed improvements which are going over existing impervious surfaces where there is an existing wooden deck and slate patio area. The Applicant further provided testimony that there is sufficient area in the driveway to park three (3) vehicles which will meet the RSIS requirement for a home with up to four (4) bedrooms. The Applicant noted that there will be three (3) upstairs bedrooms and there will be one (1) downstairs guest room which could be used as an additional

bedroom in the future. Consequently, the Board finds that it should classify that room as a fourth bedroom.

9. Mr. O'Neill testified as to the Variance issues. He testified that the property meets both the hardship and planning criteria for Variance relief. With respect to hardship, he noted the existing out of code staircase which is dangerous and requires replacement which will be accommodated in part by the proposed addition. He further testified that a planning Variance is justified pursuant to N.J.S.A. 40:55D-2 a, i, & l as the grant of the Variance relief will promote the public health and safety by replacing a dangerous staircase with a code compliant staircase, will promote a desirable visual environment and will encourage senior citizen housing as the Siclares are senior citizens and the purposes of the renovations include replacement of this dangerous staircase making it possible for them to continue to reside in the home rather than have to relocate. Mr. O'Neill further opined that there will be no negative impacts as the proposed addition does not create any new nonconformities and will not exacerbate any existing nonconforming elements. Therefore, he opined that there will be no negative impacts to the surrounding properties of the neighborhood or the Zone Plan or Zoning Ordinance as the proposed addition will not alter the character of the neighborhood.

10. The Planning Board finds that the Applicant has satisfied the positive criteria for the grant of the requested Variance relief. The Planning Board agrees with the Applicants Planner that the purposes of the Municipal Land Use Law are promoted by the proposed addition which will create a safer interior of the home, permit these senior citizens to remain in their current residence and that the proposed addition is attractive in appearance and will provide for a desirable visual environment. The Planning Board further finds that it agrees that the existing, nonconforming staircase should be replaced with a code compliant staircase.

11. 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 grant of the requested Variance will not result in any substantial detriment to the public good. The Planning Board notes that the proposed addition will comply in all respects with the requirements of the Zoning Ordinance. It will be located entirely within the permitted building envelope, will not exceed the allowable building coverage, will not exceed the allowable building height and will not exceed the allowable usable floor area ratio. Therefore, the Planning Board finds that the proposed addition will fit in with the neighborhood and the surrounding properties and will not result in any substantial negative impacts.

12. The Planning Board further finds that the grant of the requested Variance relief will not result in any substantial impairment of the Zone Plan and Zoning Ordinance. As noted previously, the proposed addition will be fully in compliance with all of the Zoning requirements and will fit in with the character and neighborhood scheme. Thus, it will not result in any substantial impairment of the Zone Plan as it will be consistent with the Zone Scheme for this area of the Borough.

With respect to the impervious coverage issue, the Planning Board finds that any impacts resulting from excessive impervious coverage will be controlled by virtue of conditions previously referenced in this resolution which will either result in a compliant impervious coverage as determined by the Board Engineer or as a result of reversion of the gravel and sand surface to grass area or will be addressed with the provision of a drywell system approved by the Board Engineer.

13. 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.

14. 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 4th day of April, 2024, that the Application of **RENI & NANCY SICLARE** 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 approvals granted in connection with this application are as follows:
 - a. Permit the construction of the proposed two-story addition as set forth in the architectural plans marked as Exhibit A-2 in evidence on a lot not conforming to the minimum lot area requirements.
 - b. Impervious lot coverage of 59.1% where 50% is permitted.
- 2) The Applicant shall consult with the Planning Board Engineer to determine whether the existing gravel and sand surface area is pervious or impervious. If pervious then the Variance noted in 1 b. above will be withdrawn as unnecessary. Conversely, if the area is determined to be impervious coverage then the Applicant shall either remove the gravel and sand surface and replace it with grassed area in which case the Variance set forth in 1 b. above will be rescinded as unnecessary or shall provide a drywell system approved by the Planning Board Engineer in which case the Variance set forth in 1 b. shall continue.

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.

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 to permit the proposed enclosure of the side covered porch on a lot with an area that does not conform to the minimum in lot area requirements of the Zone, along with increased side yard deficiency for a "code compliant landing" if required for an exit doorway.

2) The following existing, nonconforming elements will continue:

- a. Building side yard setback of 6.5 feet where 10 feet is required.
- b. Area of 6,500 square feet where 7,500 square feet is required.
- c. Lot frontage of 50 feet where 75 feet is required.
- d. Lot width of 50 feet where 75 feet is required.
- e. Lot shape diameter of 20 feet where 40 feet is required.

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.

Motion to approve: Ms. Majewski

Second: Mr. Josko

Ayes: Mr. Josko, Ms. Majewski, Dr. Zuzulock, Ms. Walter, Mr. Bearmore, Acting Chair Krupinski

Nays: None

Abstain: None

Ineligible: Mr. Caccamo, Mr. Hawley, Mr. Neff

Absent: Ms.DePasca, Councilman Dougherty, Chair McGoldrick, Mr. Kurdes

Resolution for PB24-04: Keenan – 164 E. Washington Ave., B28 L9

**IN THE MATTER OF
APPLICATION NO. PB24-04
OF JOHN & SAMANTHA KEENAN
BLOCK 28 LOT 9**

**RESOLUTION GRANTING
VARIANCE APPROVAL**

WHEREAS, JOHN & SAMANTHA KEENAN, hereinafter the "Applicant", has proposed the development of property located at 164 East Washington Avenue, in the Borough of Atlantic Highlands, County of Monmouth, and State of New Jersey which property is further known and designated as Block 28, Lot 9 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 276 square foot, three story addition requiring Variances for front yard setback of 14.70 feet where 20 feet is required and a building height of 3 stories where 2.5 stories is permitted. The foregoing is contrary to the provisions of Chapter 150, Article V, Section 150-29 (A)(2)(Exhibit 5-2) of the Development Regulations of the Borough of Atlantic Highlands; and

WHEREAS, the subject property is located in the R-1 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 March 7, 2024, 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 January 25, 2024, marked as Exhibit A-1 in evidence.

1.2 Application of John & Samantha Keenan, dated January 18, 2024, marked as Exhibit A-2 in evidence.

1.3 Architectural Elevation & Floor Plans, prepared by Kevin C. Roy, Architect, dated January 9, 2024, marked as Exhibit A-3 in evidence.

1.4 Topographical Survey, prepared by Martin A. Grant, Surveying, Inc., dated April 12, 2023, marked as Exhibit A-4 in evidence.

1.5 Area of Disturbance Plan, prepared by Alice Kupper, P.E., dated January 27, 2024, marked as Exhibit A-5 in evidence.

1.6 Steep Slope Plan, prepared by Alice Kupper, P.E., dated May 23, 2023, marked as Exhibit A-6 in evidence.

1.7 Review #1 of CME Associates, dated February 6, 2024, marked as Exhibit A-7 in evidence.

2. The premises in question are located at 164 East Washington Avenue, in the Borough of Atlantic Highlands, County of Monmouth and State of New Jersey which property is further known and designated as block 2, lot 9 on the Tax Map of the Borough of Atlantic Highlands.

3. The subject property is located in the R-1 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 125.42 ft. x 115.00 ft. x 124.67 ft. x 115.00 ft. with an approximate area of 14,380 square feet (0.33 acres). The subject property is presently developed with an existing two-story residential home with wood deck, detached shed and detached garage, patio, walkways and a stone parking area. The subject property is substantially impacted by steep slopes and has dual frontages on East Washington Avenue and North Avenue. The existing home is "L" shaped and is at a slight angle to the North Avenue property

line with the northwesterly corner of the existing home getting slightly closer to the North Avenue property line as one proceeds in an easterly direction.

5. The testimony of John Keenan and Samantha Keenan was taken and they testified that the existing residence is a small, two bedroom home and their family has two children resulting in a need for an additional bedroom. They testified that the logical place for an addition would be to the northerly side of the home and “square off” the “L” shape of the building. They also testified that the proposed location will be over an existing impervious patio area and that the existing shed in that same area will be removed. Thus, the impervious surface in a steep slope area will actually be reduced from existing conditions. Moreover, the location of the addition will have no impact upon East Washington Avenue which is the more travelled road as North Avenue only services several homes and has limited traffic. The Applicants also testified that they have an existing roof runoff system into which the new addition will direct stormwater to release runoff in several points within the yard area so that it will allow for infiltration prior to runoff reaching adjacent properties or the street. In addition, the Applicants testified that there will be no tree or shrub disturbance acquired.

6. The Applicant also provided a Steep Slope Area of Disturbance plan marked as Exhibit A-6 in evidence and agreed to adhere to the requirements and conditions set forth in that plan and in the Area of Disturbance Plan marked as Exhibit A-5, to ensure that there are no adverse impacts to the steep sloped area.

7. Question was raised by the Board Engineer as to whether the proposed addition would be 2.5 stories or 3 stories in height. After colloquy between the Applicant, the Board Engineer and Board Members, it was determined that a height Variance is required and that, based upon the architectural drawings from the existing home configuration, it is appropriate to have the addition continue the existing building lines and elevations.

8. The Planning Board finds that the Applicant has satisfied the positive criteria for the grant of the requested Variance relief. With respect to the front yard setback, the existing residence is at 15.20 feet where 20 feet is required. The proposed addition will only change that dimension by .5 feet (6 inches). The Planning Board finds that due to the topography of the property, coupled with the location and “L” shape of the existing building as well as the fact that the proposed addition will be over currently impervious area, a hardship does exist with respect to this property as the proposed location of the addition is the most appropriate and cannot be achieved without Variance approval. Thus, a hardship exists. With respect to building height, the topography of the site coupled with the location and configuration of the existing residence creates practical difficulties such that an appropriate addition in the best location cannot be achieved without the height deviation.

9. The Planning Board further finds that the Applicant has satisfied the negative criteria for the grant of the requested Variance relief. The requested Variance will not result in any substantial detriment to the public good. The addition will not be visible from East Washington Avenue and will have no impact upon the streetscape in that area. the addition will not be visible to the adjacent property to the west as it will be blocked by the existing residence. The addition will have only minimal impact, if any, upon the property to the east as it will be blocked by the detached garage and also will be at a distance that substantially exceeds the side yard setback. The addition

will have little impact to the north as it will be at a lower elevation than North Avenue, which is not heavily traveled and will be a sufficient distance from the properties on the opposite side of North Avenue and at a lower elevation so as to have di minimis impact upon them. Consequently, the grant of the requested Variance relief will not have substantial negative impacts upon the surrounding properties in the neighborhood or the streetscape and any impacts will be insubstantial.

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 and Zoning Ordinance. The Planning Board finds that with respect to the front yard setback, the Ordinance is intended to ensure that buildings are not located so close to the front setback line as to have an overly imposing appearance or massive appearance upon the streetscape. In this case, due to the topography of the property and the lightly trafficked North Avenue, coupled with the current location of the existing residence, the addition will not have impacts sought to be avoided by the Ordinance provision. In addition, with respect to the height Variance, as noted previously, the proposed addition makes sense with respect to the existing structure and will have an appearance architecturally that is consistent with the area and will not appear to be excessive in height due to the topography of the property and the architectural design of the addition. Consequently, it will not have the impacts sought to be avoided by the Ordinance, which once again seek to avoid overly imposing structures and impeding light, air and open space. This proposed addition will not have those impacts.

11. 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.

12. 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 4th day of April, 2024, that the Application of **JOHN & SAMANTHA KEENAN** 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 approvals granted in connection with this application are as follows:
 - a. Front yard setback from North Avenue of 14.70 feet where 20 feet is required (Section 150-29(A)(2)(Exhibit 5-2)).
 - b. Building height of 3 stories where 2.5 stories is permitted (Section 150-29(A)(2)(Exhibit 5-2)).
- 2) The existing shed will be removed.
- 3) The Applicant shall adhere to the requirements set forth in Exhibits A-5 “Area Disturbance Plan” and A-6 “Steep Slope Plan”.

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.

Motion to approve with conditions: Mr. Josko

Second: Dr. Zuzulock

Ayes: Mr. Josko, Ms. Majewski, Dr. Zuzulock, Ms. Walter, Mr. Bearmore, Acting Chair Krupinski

Nays: None

Abstain: None

Ineligible: Mr. Caccamo, Mr. Hawley, Mr. Neff

Absent: Ms.DePasca, Councilman Dougherty, Chair McGoldrick, Mr. Kurdes

Resolution for PB24-03: Murray – 1 Observatory Pl., B27 L5

**IN THE MATTER OF
APPLICATION NO. PB24-03
OF KATE MURRAY
BLOCK 27 LOT 5**

**RESOLUTION GRANTING
VARIANCE APPROVAL**

WHEREAS, KATE MURRAY, hereinafter the "Applicant", has proposed the development of property located at 1 Observatory Place, in the Borough of Atlantic Highlands, County of Monmouth, and State of New Jersey which property is further known and designated as Block 27, Lot 5 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 construct expansion to an existing one story dwelling by adding a 1,330 square foot second story over the existing first floor and rear patio and a 837 two story addition along with a covered side porch and raised patio requiring Variances for side yard setback of 10.3 feet where 15 feet is required, rear yard setback of 11.3 feet where 30 feet is required and maximum lot coverage of 23.9% where 15% is permitted. The foregoing is contrary to the provisions of Chapter 150, Article V, Section 150-29 (A)(2)(Exhibit 5-2) of the Development Regulations of the Borough of Atlantic Highlands. The Applicant also proposes to retain existing, nonconformities for lot frontage of 78 feet where 100 feet is required, lot shape diameter of 59.5 feet where 65 feet is required and accessory side yard setback of 2.9 feet where 5 feet is required; and

WHEREAS, the subject property is located in the R-2 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 March 7, 2024, 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 August 10, 2023, marked as Exhibit A-1 in evidence.

1.2 Application of Kate Murray, dated December 12, 2023, marked as Exhibit A-2 in evidence.

1.3 Architectural Site Plan Elevation & Floor Plans, prepared by Anthony Condouris, dated November 29, 2023, marked as Exhibit A-3 in evidence.

1.4 Steep Slope Permit Application, dated December 12, 2023, marked as Exhibit A-4 in evidence.

1.5 Steep Slope Plans, prepared by RT Land Surveying, dated September 20, 2023, marked as Exhibit A-5 in evidence.

1.6 Review #1 of CME Associates, dated February 7, 2024, marked as Exhibit A-6 in evidence.

1.7 Series of 7 Photographs of Existing Residence from various vantage points, marked as Exhibit A-7 in evidence.

2. The premises in question are located at 1 Observatory Place, in the Borough of Atlantic Highlands, County of Monmouth and State of New Jersey which property is further known and designated as block 27, lot 5 on the Tax Map of the Borough of Atlantic Highlands.

3. The subject property is located in the R-2 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 95.33 ft. x 185.81 feet x 78.00 ft. x 185.00 ft. and is substantially an elongated rectangle with an approximate area of 16,033.0 square feet (0.368 acres). The property is presently developed with a one-story residential home, covered patio, detached shed, driveway and walkways. The Applicant proposes to add a 1,330 square foot second story over the existing first floor and rear patio and an 837 square foot two story addition on the easterly side of the property as well as adding a covered porch and raised patio.

5. The Applicant presented the testimony of Kate Murray and Deborah Murray, the Board also heard testimony from its engineer, Doug Rohmeyer. Testimony demonstrated that the existing home is a two-bedroom house. The Applicant has three (3) children and needs to expand the home to accommodate the family. The side yard setback is caused by the new two-story addition which will follow the same building wall line of the existing studio as the design is to provide better access to the studio portion of the existing improvements. The rear yard setback is triggered by the new improvements to the rear of the building including the covered porch and raised patio areas. The existing studio currently encroaches into the rear yard setback at 11.3 feet where 30 feet is required. The new elements will be within the setback but a greater distance than the existing studio, 24.1 feet at its closest point. The lot coverage Variance is driven by the desire to have an improved, more functional residence that requires the requested additions.

6. The Applicant presented a series of seven (7) photographs showing the existing conditions of the property along with architectural elevation and floor plans showing proposed additions. He testified that these additions will make the home more functional and livable to accommodate the family and will create an attractive exterior for the home. The Applicant also testified that roof lines will be redone and designed to direct stormwater runoff to the east and west side yards of the property in order to allow stormwater to percolate into the ground and avoid any adverse stormwater runoff impacts upon adjacent properties. One neighbor expressed concern with regard to stormwater and after a dialogue between the Applicant, the Board Engineer and Board Members, it was determined that the Applicant will direct stormwater from the building to the side yards and show that the downspouts will accomplish this on the plans which are to be approved by the Board Engineer, in order to ensure that there will be no adverse water runoff impacts from the improvements. The Applicant also provided testimony that there is sufficient parking to accommodate the required RSIS parking spaces for a four (4) bedroom home.

7. 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 elongated rectangle in shape and it is difficult to provide full side yard setbacks for a reasonably sized home. In addition, the location of the existing dwelling limits where additions can be placed. In this case, in order to provide an addition to the easterly side of the property to connect with the existing studio and to follow the existing wall line of the studio, which is nonconforming, requires Variance relief and imposes a hardship upon the Applicant to comply with the side yard setbacks as the two-story addition needs to be aligned with the existing improvements on the property. Thus, a hardship does exist with respect to the side yard setbacks for the property. Similarly, a hardship exists with respect to the rear yard setbacks as the existing residence is constructed in the southern portion of the property with a minimal rear yard and the existing studio already has a nonconforming setback of 11.3 feet. Thus, any additions to the rear of the property, of reasonable size, will intrude into the rear yard. Therefore, a hardship exists with respect to the rear yard setback as well.

8. As a result of the foregoing, the Planning Board finds that an extraordinary and exceptional situation uniquely affecting this specific piece of property and the structures lawfully existing thereon exists such that the strict application of the Development Regulations Ordinance of the Borough of Atlantic Highlands would result in peculiar and exceptional practical difficulties to and exceptional and undue hardship upon the Applicant as it would prevent reasonable additions to be placed on the existing structure to produce an appropriate functioning home.

9. The Planning Board further finds that the grant of the requested Variance relief will not result in any substantial detriment to the public good. With respect to the side yard setback of the proposed two-story addition, the Planning Board notes that the adjacent property to the east is developed with a water tank structure. Any impact upon this property will be minimal. The addition will have no adverse impacts on the properties to the south as it will be fully blocked by the existing studio building and will have minimal or no impact upon the streetscape of Observatory Place as it is setback nearly four times the required front yard setback. Similarly, it will have little or no impact upon the properties to the west as it will be mostly blocked by the existing residence and will well exceed the side yard setback requirement on that side of the property, which will meet the combined side yard setback requirements. With respect to the rear yard setback, the nonconforming rear yard setback is an existing condition. While the deviation will be increased due to providing for additional construction, that construction will not be as large a deviation as existing condition. These additions will not be visible from the property to the east, from Observatory Place or to the north as it will be substantially blocked by the existing residence and will be adequate distance from properties to the east so as to have little or no impact upon them. Impacts upon the property to the south will be less than existing conditions and the proposed improvements are small in scale. Thus there will be no substantial detriment to the public good as the proposed improvements will not have substantial negative impacts on the surrounding properties and neighborhood.

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 and Zoning Ordinance. The Planning Board finds that the setback requirements are designed to ensure that buildings are not placed so close to the property line as to have an overbearing appearance of being too large and imposing or impeding light, air and open space. The Planning Board finds from the survey and architectural plans that the

proposed improvements will not have those impacts and will not offend the purposes for which the Ordinance was designed. Nor will they change the character of the area or the neighborhood zoning scheme.

11. With respect to the lot coverage, the Planning Board finds that this is triggered by the existing conditions of the property, including the location of the existing improvements which dictate where appropriate additions can be placed. The Planning Board notes that the proposed improvements will not exceed the usable floor area ratio. Thus, the proposed home is not oversized for what is contemplated by the zone. In addition, the Applicant has designed the home with a stormwater system to avoid excessive runoff to adjacent properties which is a principal purpose of the lot coverage limitations in the zone. The Planning Board finds that the grant of the requested variance relief will not result in a property that appears to be overdeveloped. This is particularly so as the existing home and the proposed improvements are setback a substantial distance from the front property line along Observatory Place and will not have the visual impacts of overbuilding on the property due to the substantial setback of the buildings from the streetscape.

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 that the Variances can and should be granted at this time.

13. 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 4th day of April, 2024, that the Application of **KATE MURRAY** 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. Side yard setback for proposed addition of 10.3 feet where 15 feet is required.
 - b. Rear yard setback of 11.3 feet where 30 feet is required.
 - c. Lot coverage of 23.9% where 15% is permitted.
- 2) The Applicant shall provide revised plans to demonstrate downspout runoff going to the east and west sides of the property, which plan is to be approved by the Planning Board Engineer.

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.

Motion to approve: Ms. Majewski

Second: Mr. Josko

Ayes: Mr. Josko, Ms. Majewski, Ms. Walter, Mr. Bearmore, Acting Chair Krupinski

Nays: None

Abstain: None

Ineligible: Mr. Caccamo, Mr. Hawley, Mr. Neff, Dr. Zuzulock

Absent: Ms. DePasca, Councilman Dougherty, Chair McGoldrick, Mr. Kurdes

PB23-12: Rovere – 29 E. Mount. Ave., B98 L8

Mr. Caccamo stepped down from the dais. Mr. Steib stated that the Board has jurisdiction and listed the exhibits thus far.

Henry Wolff, attorney for the applicant, summarized the application and introduced Dina Rovere, owner and applicant. Ms. Rovere was sworn in and testified that she was keeping the same footprint, same roof pitch, and same structure height. She described some pictures of the current garage and passed them around for the Board. Ms. Rovere testified that the garage is not used as a residence and was ok with adding that stipulation should the application be approved.

Mr. Pavlick asked for clarification of the existing footprint, impervious coverage, floor area ratio/FAR, existing basement, number of bedrooms and parking spaces, construction plans, tree removal, and a signed and sealed survey. Dr. Zuzulock asked about the backside of the garage and

consideration for abutting neighbor during construction. Mr. Steib asked if the new garage would be placed on the existing foundation.

There were no public questions. Mr. Wolff made his closing statement. Mr. Steib noted the addition of the series of photos among the exhibits list. There were no public comments. The Board consensus was that it was a pretty easy application.

Motion to approve: Ms. Majewski

Second: Dr. Zuzulock

Ayes: Mr. Hawley, Ms. Majewski, Mr. Neff, Dr. Zuzulock, Ms. Walter, Mr. Bearmore, Acting Chair Krupinski

Nays: None

Abstain: None

Ineligible: Mr. Caccamo

Absent: Ms. DePasca, Councilman Dougherty, Chair McGoldrick, Mr. Kurdes

PB24-02: Corneliusen-Stoll – 64 Bay Ave., B129 L1

Mr. Caccamo rejoined the dais.

Mr. Corneliusen presented his 200ft list with the Borough Clerk's notation and stack of postcard receipts for Mr. Steib to review. He swore Mr. Corneliusen in for his testimony regarding the materials he presented. Mr. Steib deemed the Board had jurisdiction and listed the exhibits thus far.

John Corneliusen described his proposed plans. Mr. Pavlick asked for clarification of the size of the addition as the plans submitted depicted differing dimensions. Mr. Corneliusen answered that those plans were issued by his architects. Mr. Pavlick deemed that the discrepancy among the submitted plans would not affect the FAR. He asked about the stormwater runoff, the landscaping plans, the existing shed, the number of bedrooms and number of parking spaces, and the construction plans. Mr. Pavlick listed the variances needed.

Dr. Zuzulock asked about the space between the addition and the fence. Mr. Bearmore asked about the stormwater runoff and gutters. Acting Chair Krupinski asked if the addition would be flush with the existing footprint. Ms. Majewski asked if the downspout would affect the neighbors.

There were no public questions. Mr. Corneliusen concluded his testimony and added that he's a life-long resident.

Dan Dejean, E. Garfield Ave., voiced his support for the applicant.

Dr. Zuzulock thought it was an easy application. Mr. Josko voiced his concern about the closeness of the neighboring property. Acting Chair Krupinski voiced concern regarding the storm water runoff.

Motion to approve: Dr. Zuzulock

Second: Mr. Josko

Ayes: Mr. Caccamo, Mr. Hawley, Mr. Josko, Ms. Majewski, Mr. Neff, Dr. Zuzulock, Ms. Walter, Mr. Bearmore, Acting Chair Krupinski

Nays: None

Abstain: None

Absent: Ms.DePasca, Councilman Dougherty, Chair McGoldrick, Mr. Kurdes

Adjournment: Vice Chair Krupinski motioned and Ms. Majewski seconded. All in favor. Meeting adjourned at 8:08pm.