

**ANNUAL REPORT FOR YEAR 2021  
OF ATLANTIC HIGHLANDS UNIFIED  
PLANNING BOARD/ZONING BOARD OF ADJUSTMENT<sup>1</sup>**

Pursuant to N.J.S.A. 40:55D-70.1, the Zoning Board of Adjustment shall, at least once a year, review its decisions on applications and appeals for variances and prepare and adopt by Resolution a report of its findings on zoning ordinance provisions which were the subject of variance requests, and its recommendations for zoning ordinance amendment or revision, if any. The Zoning Board of Adjustment is required to send copies of the report and resolution to the Governing Body and Planning Board. Pursuant to N.J.S.A. 40:55D-25 the Planning Board of the Borough of Atlantic Highlands has been authorized to exercise, to the same extent and subject to the same restrictions, all the powers of the Zoning Board of Adjustment as a unified board. This report is intended to satisfy the foregoing provisions of the Municipal Land Use Law. The report of the Borough of Atlantic Highlands Unified Planning Board/Zoning Board of Adjustment is as follows:

The following is a listing of applications, including an identification of the Applicant’s property, nature of the application and disposition of the case.

<b><u>App.#</u></b>	<b><u>Block &amp; Lot #</u></b>	<b><u>Street Address</u></b>	<b><u>Applicant/Relief</u></b>	<b><u>Zone District</u></b>
<b>PB 20-13</b>	<b>Bl. 97, Lot 28</b>	<b>31 Second Ave.</b>	<b>Niles</b>	<b>R-1</b>
			<b>Bulk Variances Side Yard</b>	

The Applicant applied to the Planning Board of the Borough of Atlantic Highlands for variance approval to permit the construction of a 461 square foot deck with access stairs to the rear of an existing residence requiring variance approval for side setback (one side) 3.9 feet where 10 feet is required and side setback (combined) of 17.0 feet where 20 feet is required, contrary to the provisions of Chapter 150, Article V, Section 150-29(A)(II) and (Exhibit 5-2) of the development regulations of the Borough of Atlantic Highlands. The subject property is an undersized lot of record and in the shape of an elongated rectangle. This creates a hardship upon the property as the narrowness of the lot makes it difficult to comply with the side yard setbacks as the lot is 25 foot narrower than what the ordinance requires. In addition, the property is already developed with the existing two story residential dwelling. The Planning Board found that the only reasonable location available on the property for the placement of a deck amenity is to the existing dwelling and that the practical location for it is to follow the existing building line. The Planning Board found that the deck is modest in size and will only be 6 feet in height. Therefore, it will have minimal visual impact upon the adjacent properties. Due to the location of the existing dwelling and the deck being placed to the rear of it, it will have no visual or other impact upon the streetscape as it will not be visible from the street due to the existing residential home.

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<sup>1</sup> JANUARY 3, 2022

The Planning Board found that decks such as that proposed by the Applicant are anticipated amenities for homes in the R-1 Zone District and that other homes including the home directly adjacent to the subject property have similar decks to that which the Applicant proposes with similar side yard deficiency. Thus, what the Applicant proposes is not inconsistent with the neighborhood scheme and surrounding properties.

**APPROVED**

<b>App.#</b>	<b>Block &amp; Lot #</b>	<b>Street Address</b>	<b>Applicant/Relief</b>	<b>Zone District</b>
<b>PB20-19</b>	<b>Bl. 9, Lot 5.03</b>	<b>254 E. Highland Ave.</b>	<b>Jasontek/Zilincar Bulk Variance Bldg. Cov.</b>	<b>R-3</b>

The Applicant applied to the Planning Board of the Borough of Atlantic Highlands for preliminary and final variance approval to construct a 12.25 ft. x 21 ft. garage addition with driveway expansion on the south-westerly façade of an existing two-story dwelling requiring variance relief for building coverage of 12.2% where 12% is permitted, contrary to the provisions of Chapter 150, Article V, Section 150-29 and Exhibit 5-2 of the Development Regulations of the Borough of Atlantic Highlands. The property has approximate dimensions of 100.00 ft. x 257.58 ft. x 150.00 ft. x 60.23 ft. x 137.73 ft. x 45.90 ft. and is substantially irregular in shape with dual frontages on East Highland Avenue to the south and Ocean Boulevard to the north. The property is bordered on its east and west sidelines by existing single-family residential homes. The subject property has two existing nonconforming elements including lot area of 25,951 sq. ft. where 30,000 sq. ft. is required and side yard setback of 10.5 ft. where 15 ft. are required. The Planning Board found that the need for variance relief resulted from the lot being undersized and if the lot were slightly larger no variance would be required. The Planning Board found that the grant of the requested variance relief will not result in any substantial detriment to the public good. The Planning Board noted that the deviation from the zoning requirement is a mere 51.9 square feet which will be imperceptible from a visual standpoint. The Planning Board found that the proposed garage addition will have no visual impact on the streetscape of Ocean Boulevard as it will be blocked by the existing dwelling. It will be in excess of the side yard setback requirements from the properties to the east and west and will have setbacks from Highland Avenue and Ocean Boulevard well in excess of that which is required. In addition to the foregoing the Planning Board reviewed the architectural renderings marked as Exhibit A-4 in evidence and found that the proposed addition will be an attractive amenity to the existing home and will have a pleasing aesthetic appearance.

**APPROVED**

<b>App.#</b>	<b>Block &amp; Lot #</b>	<b>Street Address</b>	<b>Applicant/Relief</b>	<b>Zone District</b>
<b>PB20-18</b>	<b>Bl. 61, Lot 4</b>	<b>87 Memorial Parkway</b>	<b>Zlata/Clancy Bulk Variance</b>	<b>R-1</b>

The Applicant applied to the Planning Board of the Borough of Atlantic Highlands for variance approval to construct a two-car detached garage on a 6,250 sq. ft. lot where private garage space may be provided for one motor vehicle for each 5,000 sq. ft. of lot area with an accessory side yard setback of 3.3 feet where 5 feet is required and accessory rear yard setback of 3 feet where 5 feet is required and building height of 16.17 ft. where 16 ft. is permitted. The foregoing is contrary to the provisions of Chapter 150, Article VII, Sections 150-72, 150-29 and Exhibit 5-2 of the Development Regulations of the Borough of Atlantic Highlands. Planning Board found that the property is an undersized lot of record having an area only approximately two thirds of that which is required for the zone. Therefore, in order to put a building of reasonable size on the property a variances are necessary. The Planning Board found that these conditions limit the extent to which the property can be used for permitted residential purposes in the zone resulting in a hardship to the Applicant. The existing garage structure is in dilapidated condition and needs to be replaced. At present the existing structure is in such poor condition that it is used only for storage and not for vehicles. The Planning Board found that this is an existing undersized lot which is developed with an existing two-story dwelling that leaves minimal rear yard area within which to locate a garage structure. Moreover, to locate the garage structure honoring the required setbacks would force the structure into the center of the rear yard eliminating existing open space that can be used for recreational purposes by the homes residents and permit maximum light, air and open space to the rear of the existing structure.

**APPROVED<sup>2</sup>**

<b>App.#</b>	<b>Block &amp; Lot #</b>	<b>Street Address</b>	<b>Applicant/Relief</b>	<b>Zone District</b>
<b>PB 20-03</b>	<b>Bl. 37, Lots 16 &amp; 17</b>	<b>144-146 Wesley Ave.</b>	<b>Evergreen Builders Minor Subdivision w/Variations</b>	<b>R-1</b>

The Applicant applied to the Planning Board of the Borough of Atlantic Highlands for subdivision approval/lot line adjustment. Proposed new lot 16.01 required variances for lot area of 6,780 square feet where 7,500 square feet is required – Section 150-29A(II)(Exhibit 5-2) lot frontage of 59 feet where 75 feet is required

Section 150-29A(II)(Exhibit 5-2) lot shape diameter of 39 feet where 50 feet is required Section 150-29A(II)(Exhibit 5-2) building height of 37.25 feet where 35 feet is permitted Section 150-29A(II)(Exhibit 5-2). Proposed lot 17.01 required variances for lot frontage of 66 feet where 75 feet is required Section 150-29A(II)(Exhibit 5-2) lot shape diameter of 46 feet where 50 feet is required Section 150-29A(II)(Exhibit 5-2) building height of 37.25 feet where 35 feet is permitted Section 150-29A(II)(Exhibit 5-2). The Applicant adjourned the hearing on several occasions before the hearing commenced. After the hearing commenced the Applicant submitted revised plans following which the Applicant requested several additional adjournments. Finally the Planning Board directed the Applicant to renotice due to the length of time since the application was originally. The Applicant failed to renotice, failed to appear at the rescheduled hearing and failed to provide a consent to extend the time within which the Planning Board was required to act on the application. The Planning Board dismissed the application due to lack of prosecution of the application and to avoid automatic approval.

**DISMISSED**

<b>App.#</b>	<b>Block &amp; Lot #</b>	<b>Street Address</b>	<b>Applicant/Relief</b>	<b>Zone District</b>
<b>PB20-20</b>	<b>Bl. 81, Lot 10</b>	<b>42 Asbury Ave.</b>	<b>Lordo Bulk Variance</b>	<b>R-1</b>

The Applicant applied to the Planning Board of the Borough of Atlantic Highlands for variance approval to install a backup generator in a front yard area (Section 150-54)(A)(II)) on a lot which does not conform to the minimum lot area requirements (Section 150-49.I.(III)(b)). The foregoing is contrary to the provisions of the Development Regulations of the Borough of Atlantic Highlands. The Planning Board found that the subject property is an elongated rectangle in shape and is an undersized corner lot with frontages on Asbury Avenue and 7<sup>th</sup> Avenue. The narrowness of the lot coupled with the dual frontages and the substantial front yard setbacks required from those streets provides for an extremely limited building envelope within which to locate structures. The Planning Board further found that the existing residence coupled with the wood deck and other structures on the property leave no conforming area within which to locate the proposed generator. The Planning Board further found that

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<sup>2</sup> It is noted that an objecting neighbor appealed the decision of the Planning Board. The Court nullified the Planning Board approval as the applicants failed to publish a notice of decision within 30 days of adoption of the resolution of approval as required by the Ordinance. The Court never reached a decision on the merits of the Planning Board's action granting the variances.

the existing air conditioning unit, electric panel and access to gas line is located along the westerly wall of the southerly portion of the residence which is the location where the generator needs to be placed in order to have access to gas and electric.

**APPROVED**

<b>App.#</b>	<b>Block &amp; Lot #</b>	<b>Street Address</b>	<b>Applicant/Relief</b>	<b>Zone District</b>
<b>PB20-22</b>	<b>Bl. 89, Lot 1.021</b>	<b>37 E. Washington Ave.</b>	<b>Settembrino/ Wash. Assoc. Use Variance, Bulk Variances w/Site Plan</b>	<b>R-1</b>

The Applicant applied to the Planning Board of the Borough of Atlantic Highlands for site plan approval with variances so as to permit the expansion of a professional office use to the second floor of an existing three (3) story multi-family/office building requiring a use variance for the expansion of a nonconforming professional office use with bulk variances for one side yard setback of 9.5 feet where 10 feet is required (existing condition), building height of 3 stories/58 feet where 2.5 stories/35 feet is permitted (existing condition) and 8 parking spaces where 16 parking spaces are required. The Applicant also requires design waivers to permit a driveway 3 feet from the rear property line where 5 feet is required (Section 154-54 (F)) parking within a front yard setback (Section 150-89.B(I)(f)) gravel parking area where paved parking area with cast in place curbing is required (Section 150-89.B(III)(f)) not providing an ADA parking space where 1 space is required (Section 150-89.B(IV)(a)) and providing a “one-way” driveway where a “two-way” driveway is required (Section 150-89.D(I)). The Planning Board noted that the **Burbridge v. Mine Hill Township** case provides that the Applicant is not required to demonstrate special reasons in this type of case. Instead, the Board conducts a “benefits/detriments” analysis. The Planning Board found that the present use is a mixed residence/office use with three units and that the proposed use will continue to be a mixed residence/office use with three units. He further opined that the proposed architect’s office use will be significantly less intense than that of the doctor’s office. The Planning Board also found that the bulk variances were subsumed with the grant of the Use variance.

**APPROVED**

<b>App.#</b>	<b>Block &amp; Lot #</b>	<b>Street Address</b>	<b>Applicant/Relief</b>	<b>Zone District</b>
<b>PB20-25</b>	<b>Bl. 117, LotS 10, 11 &amp; 12</b>	<b>49-51 First Ave.</b>	<b>Krikorian Use Variance w/ Site Plan Waiver</b>	<b>HBD &amp; R-1</b>

The "Applicant" proposed the development of property located at 49-51 First Avenue, in the Borough of Atlantic Highlands, County of Monmouth, and State of New Jersey, which property is further known and designated as Block 117, Lots 10, 11 and 12, on the Tax Map of the Borough of Atlantic Highlands. Prior to the hearing the Applicant, through their attorney Kevin E. Kennedy, Esq., requested a that the application be withdrawn without prejudice.

**WITHDRAWN AND DISMISSED**

<b>App.#</b>	<b>Block &amp; Lot #</b>	<b>Street Address</b>	<b>Applicant/Relief</b>	<b>Zone District</b>
<b>PB20-23</b>	<b>Bl. 117 Lots 2</b>	<b>28 Prospect Circle</b>	<b>Hinz Bulk Variances</b>	<b>R-1</b>

The Applicant applied for approval from the Planning Board of the Borough of Atlantic Highlands to construct a new two-story dwelling with covered front and rear porches, a rear yard patio and a detached garage with variances for front yard setback, side yard setback, combined side yard setback, accessory side yard setback, accessory rear yard setback, building coverage, impervious coverage, steep slope impervious, steep slope disturbance and useable floor area ratio. Prior to the hearing the Applicant requested a that the application be withdrawn without prejudice. The Planning Board considered the request and, having not commenced a hearing and having made no determination as to the merits of the application, the Planning Board found that the application should be dismissed without prejudice.

**WITHDRAWN AND DISMISSED**

<b>App.#</b>	<b>Block &amp; Lot #</b>	<b>Street Address</b>	<b>Applicant/Relief</b>	<b>Zone District</b>
<b>PB20-24</b>	<b>Bl. 125, Lots 8</b>	<b>Ave. C &amp; W Washington</b>	<b>Hennessey Use Variance/Site Plan</b>	<b>R-1</b>

The Applicant applied to the Planning Board of the Borough of Atlantic Highlands to change from an existing use to a commercial indoor athletic/exercise facility requiring use variance and site plan approval. The Applicant requested a that the application be withdrawn without prejudice. The Planning Board considered the request and having not commenced a hearing and having made no determination as to the merits of the application, the Planning Board found that the application should be dismissed without prejudice.

**WITHDRAWN AND DISMISSED**

<b>App.#</b>	<b>Block &amp; Lot #</b>	<b>Street Address</b>	<b>Applicant/Relief</b>	<b>Zone District</b>
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**PB20-27      Bl. 50, Lot 12      31 Navesink Ave.      Hildebrandt      R-1**  
**Use Variance/FAR**

The Applicant applied to the Planning Board of the Borough of Atlantic Highlands for variance approval to construct a second floor addition to the existing dwelling to be maintained within the existing foundation footprint requiring a maximum usable floor area ratio Variance of .42 where .40 is permitted, contrary to the provisions of Chapter 150, Article V, Section 150-29 of the Development Regulations of the Borough of Atlantic Highlands. The Planning Board found that the positive criteria for the grant of a floor area ratio variance is to determine that, notwithstanding the deviation from the Ordinance requirement, the property can still accommodate the proposed development. In this case, the Planning Board found that there will be no expansion of the footprint of the existing building, only an increase in building height. The Planning Board found that this will permit the development of the home with additional bedrooms that will be consistent with the surrounding neighborhood and will not create any significant increase in the intensity of use of the property as it will continue to be used as a single-family home. The addition of bedrooms will not result in the requirement of additional parking area pursuant to the RSIS standards and the proposed two parking spaces existing on the property meet the RSIS standard for a four-bedroom home. The Planning Board found that the added usable floor area ratio amounts to approximately 100 square feet of living space which is di minimis. Therefore, the Planning Board found that the proposed addition is appropriate under the circumstances and that the property can accommodate this minor deviation from the usable floor area ratio requirement.

**APPROVED**

<u>App.#</u>	<u>Block &amp; Lot #</u>	<u>Street Address</u>	<u>Applicant/Relief</u>	<u>Zone District</u>
<b>PB20-21</b>	<b>Bl. 9, Lot 1</b>	<b>321 Ocean Blvd.</b>	<b>Ginsberg</b> <b>Bulk Variances</b>	<b>R-3</b>

The Applicant applied to the Planning Board of the Borough of Atlantic Highlands for variance approval to construct additions to an existing home including a second story, front and rear yard covered porches, a two-car garage, a second driveway along Highland Avenue, a front access walk, a rear hot tub and outdoor shower requiring variances for front yard setback from Cedar Place of 16 feet where 25 feet is required, rear yard setback of 15.5 feet where 30 feet is required, building coverage of 18.2% where 12% is permitted and usable floor area ratio of 0.178 where 0.175 is permitted. During the hearing it was determined that the floor area ratio variance was not required. The Planning Board found that there is a hardship associated with the subject

property as it has three frontages on an existing undersized lot. Those features coupled with the location of the existing residence made it impossible to place a second story on the home without the requirement for variance relief. In addition, because of the undersized nature of the parcel the Variances were appropriate to allow adequate building coverage for a reasonably sized home in this area of the municipality. The Planning Board found that the proposed improvements are consistent with other homes in the neighborhood and will result in a home that harmonizes with the existing development in the area.

**APPROVED**

<u>App.#</u>	<u>Block &amp; Lot #</u>	<u>Street Address</u>	<u>Applicant/Relief</u>	<u>Zone District</u>
PB 21-01	Bl. 66, Lot 9	69 E. Lincoln Ave.	Howe Bulk Variance	R-1

The Applicant applied to the Planning Board of the Borough of Atlantic Highlands for variance approval to construct a first and second floor addition to an existing dwelling along with porch addition requiring Variance relief to permit a principle building side yard setback of 4.9 feet where 10 feet is required and 5.5 exists and combined side yard setbacks of 14.7 feet where 20 feet is required and 15.9 feet exists. The foregoing is contrary to the provisions of Chapter 150, Article V, Section 150-29 of the Development Regulations of the Borough of Atlantic Highlands. The Planning Board found that the subject property is an elongated rectangle shape with an existing structure that encroaches into the side yard setback. Due to the location and orientation of the existing structure, coupled with the narrowness of the lot, additions to the home cannot be constructed without violating the side yard setbacks. Therefore, the Planning Board found that variances were justified due to hardship. The Planning Board found that the deviation from existing conditions of the side yard is only 6/10ths of 1 foot on one side and 1.2 feet total change in the side yard setback. The Planning Board found that these changes are di minimis. The Planning Board further found that the proposed addition will follow existing building lines, are modest in size and will be consistent with the architectural elements of the surrounding properties in the area. Therefore, the Planning Board found that any adverse impacts were insubstantial and the proposed improvement were consistent with the neighborhood scheme.

**APPROVED**

<u>App.#</u>	<u>Block &amp; Lot #</u>	<u>Street Address</u>	<u>Applicant/Relief</u>	<u>Zone District</u>
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**PB21-04      Bl. 105, Lot 4.01      21 W. Lincoln Ave.      Hennessey      LI**  
**Use Variance**

The Applicant applied to the Planning Board of the Borough of Atlantic Highlands for variance approval with site plan waiver to use a 3,450 square foot portion of a 15,200 square foot commercial building as a Cross Fit training facility which requires Use Variance approval as commercial and/or athletic exercise facilities are not a permitted use in the LI Zone District. The Applicant also required Variance relief to permit 46 parking spaces where 128 parking spaces is required. The foregoing are contrary to the provisions of Chapter 150, Article V, Section 150-31 and Article IX, Section 150-89 of the Development Regulations of the Borough of Atlantic Highlands. The Planning Board found that the proposed Cross Fit facility will function similarly to a service use since it has limited classes by appointment only. The Planning Board found that there is no need for exterior improvements for the Cross Fit facility and that the subject property is “tucked into” an area with no through street outlet and would not generate any significant traffic issues. The planning Board found that the LI Zone allows mixed use shared space buildings and that there are special reasons for the grant of use Variance relief pursuant to N.J.S.A. 40:55D-2.g. and m. as the Master Plan encourages upgrade and revitalization of the business and entertainment areas of the community and the grant of Variance relief in this case will promote those purposes by providing sufficient space in an appropriate location for a variety of uses in order to meet the need of residents. Thus, the Planning Board found that the proposed use is an appropriate use in this location and therefore will promote the purposes of the Master Plan. In addition, the grant of Variance relief will encourage the coordination of various public and private procedures shaping land development and promote the efficient use of land.

**APPROVED**

<u>App.#</u>	<u>Block &amp; Lot #</u>	<u>Street Address</u>	<u>Applicant/Relief</u>	<u>Zone District</u>
<b>PB20-26</b>	<b>Bl. 48, Lot 11</b>	<b>15 Simpson Ave.</b>	<b>Torres</b>	<b>R-1</b>
			<b>Use Variance/FAR w/Bulk Variance</b>	

The Applicant applied to the Planning Board of the Borough of Atlantic Highlands for approval to construct additions to their existing residence requiring bulk and useable floor area ratio variance approval. Prior to the commencement of the hearing the Applicant communicated to the Planning Board that they no longer wished to move forward with the application requested that the application be withdrawn

**WITHDRAWN AND DISMISSED**

<u>App.#</u>	<u>Block &amp; Lot #</u>	<u>Street Address</u>	<u>Applicant/Relief</u>	<u>Zone District</u>
<b>PB20-16</b>	<b>Bl. 87, Lot 5</b>	<b>30 Asbury Ave.</b>	<b>Manigrasso Bulk Variances</b>	<b>R-1</b>

The Applicant proposed to remove an existing rear yard covered porch and patio and construct a 2.5 story addition to the rear of an existing dwelling. The addition would follow the existing building line requiring a single side yard setback of 10 feet where 10 feet are required and 6 feet exist and a combined side yard setback of 18 feet where 20 feet is required and 18 feet exists. The Applicant also required a Variance for first floor area of 770 square feet where 900 square feet is required and 500 square feet exists. The foregoing is contrary to the provisions of Section 150-29 of the Development Regulations of the Borough of Atlantic Highlands. The Planning Board found that the Variances in this case for side yard setback results from the fact that the subject property is a long, narrow parcel and that a reasonably sized structure cannot be placed on the property without the requirement for Variance relief as the residence would have to be so narrow as not to be able to provide rooms of adequate size. In addition to the foregoing, the Applicant is following the existing building wall lines which is necessary as this is an addition to an existing structure and placing an addition elsewhere other than to the rear yard would require additional Variances.

**APPROVED**

<u>App.#</u>	<u>Block &amp; Lot #</u>	<u>Street Address</u>	<u>Applicant/Relief</u>	<u>Zone District</u>
<b>PB18-06</b>	<b>Bl. 142, Lot 5</b>	<b>17 Ave. D.</b>	<b>Denholtz Major Subdivision w/ Variances</b>	<b>R-1</b>

The Applicant previously applied for, and by Resolution adopted June 13, 2019 received, Preliminary and Final Major Subdivision Approval of a 308,885 sq. ft. (7.09 acre) parcel into sixteen (16) single family residential Lots and a remainder open space Lot on a new cul-de-sac roadway, with associated sidewalks, temporary construction signage, stormwater management facilities, utility connections, lighting, landscaping and a public utility sanitary pump station. Thereafter, Neighbors for Waterfront Preservation and Corey Wingerter filed a complaint In Lieu of Prerogative Writs docket number MON-L-2262-19 challenging the decision of the Planning Board. Following trial the Honorable Owen C. McCarthy, J.S.C. rendered a decision reversing in part and affirming in part, the decision of the Planning Board and remanding the application to the Planning Board for further proceedings. The Applicant filed a motion seeking reconsideration of the Judge's

decision and Neighbors for Waterfront Preservation and Corey Wingerter filed a cross motion for reconsideration. Prior to the hearing of the cross motions for reconsideration the Applicant and Neighbors for Waterfront Preservation and Corey Wingerter conducted negotiations and the parties agreed that the case would be remanded to the Planning Board for a public hearing on the terms of a settlement agreement pursuant to revised plans prepared and submitted by the Applicant. The hearing was conducted as a continuation hearing of the application and all Board members voting on the settlement agreement were present at all prior meetings of the Planning Board considering the application or either listened to the audio tapes or read the transcripts of the prior meetings in full and executed certificates. After full presentation the Planning Board found the application and the presentation of the Applicant, which was unopposed, satisfied the requirements of the Ordinance and the MLUL for the grant of preliminary and final major subdivision approval with variances.

**APPROVED**

<u>App.#</u>	<u>Block &amp; Lot #</u>	<u>Street Address</u>	<u>Applicant/Relief</u>	<u>Zone District</u>
PB#21-05	Bl. 99, Lot 15	73 third Ave.	73 Third Ave., LLC Use Variance/Site Plan/Bulk Variances	R-1

The Applicant applied to the Planning Board of the Borough of Atlantic Highlands for Use Variance and Site Plan approval to convert an existing Church into a three-unit multi-family dwelling building. The total building area including basement, ground floor and mezzanine consisting of 9,128 square feet was proposed to remain and be converted into three single family residential dwelling units with off street parking spaces which requiring Variances for multi-family building is not a permitted, maximum lot coverage 63% where 50% is permitted, maximum useable floor area of 0.90 where 0.40 is permitted, parking is not permitted in any front yard whereas the Applicant proposes parking in front yards area along 3<sup>rd</sup> Avenue and Highland Avenue, driveway width of 37 feet where 30 feet is permitted, not providing buffers along entire side and rear property lines, proposed garbage collection and parking areas not screened where screening is required. The Planning Board found that the existing development on the property is a Church with a community center and parish house. The Church was built in approximately 1890 and features gothic stained glass windows and bell tower. It is an historic structure listed on the County Historic Registry. It was previously utilized as a Church, Nursery School, Religious Instruction facility and Parsonage. The RSIS regulations require 6 parking spaces for this site. One of the options was to provide for the 6 parking spaces on-site. A second option was to provide for only 4 parking spaces on-site. A third option was street parking. The Applicant proposed that the 4 parking space option was his preferred plan and proceeded on that basis. The Planning Board agreed that the 4 parking space option was a preferable compromise. It is noted that the issue of adequate on-site parking was

of concern to interested residents and continues to be a substantial concern of the Planning Board in all applications. Although the Planning Board acknowledged that although there were a significant number of Variances required this is principally the result of the existing conditions of the property including the existing Church building and the corner lot resulting in two front yard areas. This places severe constraints on further development of the property without the grant of Variance relief. The Planning Board agreed with the Applicant's planner that the proposal is consistent with the 2019 Master Plan of the Borough which encourages the preservation of historic sites and the enhancement of historic architecture. Moreover, the purposes of the Municipal Land Use Law N.J.S.A. 40:55D-2 A and J will be promoted by the grant of the requested Variance relief as retaining the existing structure will preserve the character of the neighborhood and conserve this historic site. Due to the location of the existing building the only place the parking can be provided is in the front yard area and since this property is a corner property there are two front yards. The excessive lot coverage cannot be eliminated if there is to be parking on site. The proposed site plan will maintain the aesthetics existing on the property with improved landscaping. Thus, there will be no substantial detriment to the public good as this will preserve the existing character of the neighborhood. Nor will there be any substantial impairment of the zone plan or zoning ordinance since this is retaining an existing historical structure that has set the character of the area for approximately 130 years.

**APPROVED**

<u>App.#</u>	<u>Block &amp; Lot #</u>	<u>Street Address</u>	<u>Applicant/Relief</u>	<u>Zone District</u>
<b>PB#21-03</b>	<b>Bl. 1, Lot 2</b>	<b>251 Ocean Blvd.</b>	<b>Smyth</b> <b>Use Variance/FAR w/Bulk Variance</b>	<b>R-1</b>

The Applicant applied to the Planning Board of the Borough of Atlantic Highlands for approval to construct a 100 +/- square foot addition to an existing dwelling including the replacement of existing deteriorated decks requiring variance relief for the construction of an addition on a non-conforming (undersized) lot, side yard setback of 4.1 feet where 15 feet is required, combined side yard setback of 13.4 feet where 30 feet is required, building coverage of 14.6% where 12% is permitted and usable floor area ratio of .255 where .175 is permitted (use variance). The Planning Board found that the improvements will improve a deteriorating home with deteriorated decks and will reduce overall deck and impervious coverage as well as provide new decking with improved stormwater management to secure safety from flooding which promotes public health, safety and welfare. Moreover, the proposed improvements will provide for adequate light, air and open space and provide a more desirable visual environment. Moreover, the proposed improvements will

provide for adequate light, air and open space and provide a more desirable visual environment. The Planning Board found that the usable floor area ratio limitations are designed to ensure that homes are not constructed which are so large and expansive as to be out of character with the area and too intense a use. The Planning Board found that in this case a modest, 100 square foot addition will have di minimis impact upon the streetscape and surrounding properties and will result in a more functional home which will not offend the purposes for which the Ordinance was adopted.

**APPROVED**

<u>App.#</u>	<u>Block &amp; Lot #</u>	<u>Street Address</u>	<u>Applicant/Relief</u>	<u>Zone District</u>
<b>PB#21-08</b>	<b>Bl. 101, Lot 12</b>	<b>93 Third Ave.</b>	<b>Collins Bulk Variance</b>	<b>R-1</b>

The Applicant applied to the Planning Board of the Borough of Atlantic Highlands for Variance approval to permit various improvements to the property including first floor alterations, a second story addition, a new side yard porch, replacement of an existing side yard porch which require Variance approval as a non-conforming lot may not be used for any purpose unless the lot conforms to the minimum lot area requirements. The subject property has a lot area of 5,817 square feet where 7,500 square feet is required which is contrary to the provisions of Chapter 150, Article VII, Section 150-49 of the Development Regulations of the Borough of Atlantic Highlands. The Planning Board found that the applicant purchased the property in March of 2021 and that the existing building is in poor condition, requiring substantial repair and updating in order to bring it to current standards. Although the property will receive a second story addition, the alterations to the first floor will actually reduce the building footprint and total floor area resulting in the reductions in existing deviations for building coverage, total impervious coverage, side yard setback, total side yard setback and floor area ratio. Thus, the proposed improvements will result in a more conforming property than currently exists. The Planning Board found that, due to the existing undersized condition of the lot, no improvements can be made to the property without the requirement for Variance relief. The Planning Board found that the proposed improvements will result in a more attractive home meeting current building standards in closer conformity with the Zoning regulations of the Borough. The proposed improvements are not expanding the existing structure. Instead, they are reducing its impacts upon adjacent properties and therefore will not have any

substantial negative impact upon the surrounding properties, the neighborhood or the zone scheme. In fact, it will have a positive impact by reducing four existing nonconformities.

**APPROVED**

<u>App.#</u>	<u>Block &amp; Lot #</u>	<u>Street Address</u>	<u>Applicant/Relief</u>	<u>Zone District</u>
<b>PB#20-11</b>	<b>Bl. 28, Lot 26</b>	<b>124 E. Washington Ave.</b>	<b>Finkelstein</b>	<b>R-1</b>

**Extension of Approval**

The Applicant received minor subdivision approval pursuant to the minor subdivision plan prepared by Richard E. Stockton & Associates dated January 28, 2020, marked as Exhibit A-3 in evidence by Resolution of the Planning Board adopted on September 3, 2020. Pursuant to statute the subdivision had to be perfect within 190 days of the resolution of approval (March 2, 2021). The Applicant was not able to comply with all resolution compliance requirements and perfect the subdivision with the 190 day period and requested an extension. The Planning Board found that extension was appropriate as there were no changes to the Ordinance, the property or the character of the neighborhood since the initial approval.

**APPROVED**

<u>App.#</u>	<u>Block &amp; Lot #</u>	<u>Street Address</u>	<u>Applicant/Relief</u>	<u>Zone District</u>
<b>PB#21-07</b>	<b>Bl. 97, Lot 4</b>	<b>98 First Ave.</b>	<b>98 First Ave., LLC/Sorensen</b>	<b>HBD</b>

**Use Variance/Parking Variance**

The Applicant applied to the Planning Board to convert a portion of the first floor law office into a separate office space. The proposed office space will occupy approximately 600 square feet of the total first floor building area of 1,588.59 square feet. The Planning Board found that the property surrounding the subject site to the north and west are similarly zoned HBD, Properties to the south were located in the CBD (Central Business District) Zone District and properties to the east are in the R-1 Residential Zone. The Planning Board found from the report of its Engineer marked as Exhibit A-5 in evidence that other than the change of use the Applicant has not requested any new/additional Variances and/or Design Waivers and no new exterior site improvements are proposed. The Planning Board found that the proposed operations will be consistent with the current law office operations on the first floor and that the second and third floor occupants will remain unchanged. Therefore, the intensity of the use will not change. The Planning Board found that the Applicant has provided adequate proof to justify the grant of the parking Variance which requires 11 on site parking

spaces where none are provided. The Applicant is providing 9 spaces on adjacent lot 2 and has demonstrated that this has been adequate to handle the parking needs for lot 4 for many years. The Planning Board found that the use of lot 2 for parking will satisfy the parking requirements for lot 4 and that the positive criteria for the grant of requested Variance relief is satisfied as on-site parking cannot feasibly be provided on lot 4 since the entirety of the lot is covered by the existing building. The Planning Board required the Applicant to record a deed notice with the Monmouth County Clerk stating that, in the event lot 2 becomes unavailable to satisfy the parking requirements for lot 4 in the future, the Applicant shall reapply to the Planning Board to address the parking requirements for this property.

**APPROVED**

<u>App.#</u>	<u>Block &amp; Lot #</u>	<u>Street Address</u>	<u>Applicant/Relief</u>	<u>Zone District</u>
PB#21-10	Bl. 72, Lot 2	60 Eighth Ave.	Burns Bulk Variance	R-2

The Applicant applied to the Planning Board of the Borough of Atlantic Highlands for approval to install a Generac whole house generator on a lot which does not conform to the minimum lot area requirements of the zone district with a side yard setback of 0 ft. where 10 ft. is required. The foregoing is contrary to the provisions of Chapter 150, Article VII, Section 150-49.1 and Article V, Section 150-29 respectively of the Development Regulations of the Borough of Atlantic Highlands. The Planning Board found that based upon the shape of the lot, the location of the existing dwelling and the location of the existing gas line that the only practical location for the proposed generator is where the Applicant proposed to place it.. Without the grant of Variance relief the Applicant would be deprived of having a generator. The use of this property for an intended amenity will be unreasonably limited. Therefore, the Planning Board found that an extraordinary and exceptional situation uniquely effecting this specific piece of property and the structures lawfully existing thereon exists such that the strict application of the development regulations 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 the Applicant from having this amenity for their home.

**APPROVED**

<b>App.#</b>	<b>Block &amp; Lot #</b>	<b>Street Address</b>	<b>Applicant/Relief</b>	<b>Zone District</b>
<b>PB#21-02</b>	<b>Bl. 25, Lot 1</b>	<b>2 Keystone Drive</b>	<b>Rosenthal</b>	<b>R-2</b>
<b>Minor Subdivision w/Variance</b>				

The Applicant applied to the Planning Board of the Borough of Atlantic Highlands for minor subdivision approval to subdivide an existing 48,915 square foot (1.12 acres) property into two residential lots. Proposed lot 1.01 will retain an existing one-story dwelling and proposed lot 1.02 will be developed with a new one-story single family dwelling. The subdivision requires Variances for principal dwellings not to be located on a street improved to Borough standards (Section 150-52), maximum lot disturbance for proposed lot 1.02 of 20,177 square feet where 10,523 square feet is permitted (Section 150-78.E.) and detached accessory building (existing garage) located in a front yard on proposed lot 1.01 (Section 150-54.D.). The property is presently developed with a one-story single family residential home and ancillary improvements including, but not limited to, a stone driveway extending from Keystone Drive, a detached garage, a rear yard deck, retaining walls, a gazebo and concrete walkways. Keystone Drive in this area exists as an unimproved gravel road that does not meet Borough standards. The Planning Board found that the Applicant demonstrated that the existing conditions of Keystone Drive and this area can support access to and from the proposed site of regular passenger vehicles as well as emergency vehicles for emergency services and firefighting purposes. The Planning Board further found that it would not be appropriate to require the development of 900 square feet of asphalt and the accompanying potential adverse impacts upon stormwater runoff. Therefore, it is appropriate to grant the approval for construction on a lot without frontage on an improved public street. The Planning Board further found that the proposed lot disturbance is reasonable under the circumstances and that the property cannot be reasonably developed without the grant of Variance relief for lot disturbance. The Planning Board further found that the Variance for the garage in a front yard area is appropriate as it is an existing condition that has been in place for many years and characterizes this area of Keystone Drive. The Variance cannot be avoided without removal of the existing building which is inappropriate under the circumstances.

**APPROVED**

<b>App.#</b>	<b>Block &amp; Lot #</b>	<b>Street Address</b>	<b>Applicant/Relief</b>	<b>Zone District</b>
<b>PB#21-12</b>	<b>Bl. 117, Lots 10, 11 &amp; 12</b>	<b>49-51 First Ave.</b>	<b>Krikorian</b>	<b>HBD</b>



## Use Variance/Parking Variance

The Applicant applied to the Planning Board of the Borough of Atlantic Highlands for minor site plan approval with Variance relief to permit 2-bedroom dwelling units with a floor area of 670 square feet where 900 square feet is required contrary to the provisions of Chapter 150, Article VI, Section 150-42.A(4)(b) of the Development Regulations of the Borough of Atlantic Highlands. The Planning Board found that The subject property is located in the HBD Historic Business District Zone and hotels and restaurants are a permitted use in the zone. The subject property is presently developed with the existing Blue Bay Inn Hotel consisting of 27 units (23 rooms/suites and 4 apartment style units) along with 2 restaurants located on the first floor of the Inn. The Applicant proposed to convert eight (8) of the existing rooms into four (4) two-room suites with kitchenettes. Other than the interior modifications to the building, no other improvements are proposed within this application. The Planning Board found that, notwithstanding the undersized area of the units, they are not intended as year-round dwelling units but rather are designed for transient guests on a shorter-term basis. The Applicant presented testimony that all rooms in the hotel will continue to be for transient guests. There will be no long-term leases and specifically no leases for one year or greater. Therefore, the Planning Board found that the proposed use is for hotel use rather than long term residential use and that these existing facilities can accommodate the deviation for conditional use standards and meet the positive criteria for the grant of Variance relief. The Planning Board further found that the application met the negative criteria for the grant of Variance relief. This is an existing hotel that has been in place for approximately 20 years without negative impacts. The proposed renovations will not change those circumstances which remain the same. Since there will be no exterior renovations there will be no impact to the neighborhood or the surrounding areas as this will simply continue existing conditions. Therefore, there will be no substantial detriment to the public good. The Planning Board further found that the grant of the requested Variance relief will not result in any substantial impairment of the zone plan or zoning ordinance as there will be no change in the zoning and existing conditions will continue. The use is permitted and has set the character of the area for the last 20 years. Therefore there will be no impact upon the zone plan or zoning ordinance.

### APPROVED

<u>App.#</u>	<u>Block &amp; Lot #</u>	<u>Street Address</u>	<u>Applicant/Relief</u>	<u>Zone District</u>
<b>PB#21-09</b>	<b>Bl. 8, Lot 31</b>	<b>8 Belvidere Rd.</b>	<b>Martelli</b>	<b>R-3</b>

## **Bulk Variance**

The Applicant applied to the Planning Board of Atlantic Highlands for Variance approval to permit the construction of a second story to an existing detached garage resulting in an accessory building height of two stories where one story is permitted with a height of 22.7 feet where 16 feet is permitted and expanding an existing non-conforming detached garage in a front yard area. The foregoing is Contrary to the provisions of Chapter 150, Article V, Section 150-29 and Article VII, Section 150-49 of the Development Regulations of the Borough of Atlantic Highlands. The Planning Board found that the garage is an existing structure which has been in place for a significant period of time. Thus, it has set character of the area and it would impose an inappropriate hardship on the Applicant to require the garage to be moved to a conforming location. The Planning Board found that the grant of the requested Variance relief will promote the purposes of the Municipal Land Use Law pursuant to N.J.S.A. 40:55D-2.i. as it will promote a more desirable and visual environment through this creative development technique of renovating the garage to harmonize architecturally with the existing residence and to improve the visual appearance of this outdated structure with pleasing architectural elements.

The Planning Board further found that the grant of the requested Variance relief will not result in any substantial detriment to the public good. The Planning Board found that the proposed structure will not be increased in building footprint, but only in height to provide for attic/storage. The improvements have been designed by a licensed professional architect and the Planning Board found from the Exhibits submitted, including the architectural plan and the super-imposed photograph, that this will be a pleasing aesthetic improvement and will provide an improved aesthetic appearance from the streetscape as well as from neighboring properties. The Planning Board found that the increase in height of 6.7 feet will have di minimis impacts upon light, air, and open space which detriment will be substantially outweighed by the improved, visual appearance of the structure. In addition, the Planning Board found from the testimony that there will be no increase in stormwater runoff and that adding the rain barrel will actually improve stormwater management from the property and reduce impacts upon neighboring properties. Therefore, there will be no substantial detriment to the public good flowing from the grant of the requested Variance relief. The Planning Board further found that the grant of the requested Variance relief will not result in any substantial impairment of the Zone Plan or Zoning Ordinance. The proposed improvements will result in a more pleasing aesthetic appearance to the subject property. Moreover, there will be no significant zoning impacts as this is an existing building which previously set the character of this area of Belvidere Road. The Planning Board further found

the testimony of the Applicant's Architect that existing structure is below street grade such that the increase in height will have di minimis impacts.

**APPROVED**

<u>App.#</u>	<u>Block &amp; Lot #</u>	<u>Street Address</u>	<u>Applicant/Relief</u>	<u>Zone District</u>
<b>PB#21-16</b>	<b>Bl. 12, Lot 4</b>	<b>231 Ocean Blvd.</b>	<b>Snyder/Okuniewicz Bulk Variance</b>	<b>R-3</b>

The Applicant applied to the Planning Board of the Borough of Atlantic Highlands for approval to construct a 165 square foot covered porch with a 2 foot by 4 foot concrete pad for a generator along the northerly side of the existing dwelling requiring a Variance for Building coverage of 15.3% where 12% is permitted and 13.9% exists, impervious lot coverage of 38.5% where 30% is permitted and 37% exists , permitting the alteration of a non-conforming building increasing the degree of non-conformance, maximum lot coverage in steep slope area of 5,694 square feet where 4,028 square feet is permitted and 5,521 square feet exists and maximum impervious area in a steep slope area of 5,694 square feet where 4,707 square feet is permitted and 5,521 square feet exists. The Planning Board found that the subject property is an undersized lot of record which has current modest improvements that have maximized what is permitted without the requirement of variance relief. Any addition to the subject property will require Variance relief for building coverage, impervious coverage and steep slope area coverages as well as increasing the degree of non-conformance. Based on the foregoing the Planning Board found that due to the existing conditions and improvements on the property Variance relief is required for any additions to the residence. Therefore, the Planning Board found that an extraordinary and exceptional situation uniquely effecting this specific piece of property and the structures lawfully existing thereon exists such that the strict application of the Atlantic Highlands Development Regulations would result in peculiar and exceptional practical difficulties to and exceptional and undue hardship upon the Applicant as it would prevent any additions to be placed on the structure. Therefore, a hardship does exist with respect to this property. The Planning Board further found that the Applicant satisfied the negative criteria for the grant of the requested Variance relief. The Planning Board found that the proposed covered front porch is a desirable amenity for residential homes in the R-3 Zone in order to provide shelter for persons entering and leaving the property during inclement weather. The proposed front porch and the generator pad are modest in size and will have little visual impact upon the streetscape or

surrounding properties. They are not violating any of the conventional yard setbacks and therefore will not have an overly imposing appearance or impact upon adjacent properties. Any impacts upon the surrounding properties and streetscape are insubstantial. The Planning Board further found that the grant of the requested Variance relief will not result in any substantial impairment of the Zone Plan or Zoning Ordinance. This is a modest addition to an existing residence and will provide an amenity that is consistent with amenities anticipated for residential homes in the R-3 Zone District. The deviation proposed is minimal. The Planning Board reviewed the photograph of the subject property with the superimposed covered porch and found it to be a pleasing aesthetic improvement to the property that will not have any adverse impacts upon the Zone Plan and the Zoning Ordinance.

**APPROVED**

<b><u>App.#</u></b>	<b><u>Block &amp; Lot #</u></b>	<b><u>Street Address</u></b>	<b><u>Applicant/Relief</u></b>	<b><u>Zone District</u></b>
<b>PB#21-11</b>	<b>Bl. 135, Lot 10</b>	<b>39 South Ave.</b>	<b>Sharkey Bulk Variance</b>	<b>R-2</b>

The Applicant applied to the Planning Board of the Borough of Atlantic Highlands for Variance approval to construct a 6 foot high solid vinyl fence in a front yard area along Avenue C where fences in a front yard may not exceed 48 inches in height. This requires a variance from the provisions of Chapter 150, Article VII, Section 150-70 of the Development Regulations of the Borough of Atlantic Highlands. The Planning Board found that the subject property is unique insofar as it is an extremely elongated rectangle with its effective rear yard fronting along Avenue C. The Planning Board found that the rear yard area of the zone is the only reasonable area for recreation by the family and that the family should be permitted to have some degree of privacy which cannot be created without the use of some form of screening such as the proposed vinyl fence. As a result of the foregoing the Planning Board found that an extraordinary and exceptional situation uniquely effecting this specific piece of property and the structures lawfully existing thereon exists such that the strict application of the Development Regulations 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 the Applicant from having adequate privacy for the recreational portion of the property. Consequently, a hardship does exist, and the Applicant satisfied the positive criteria for the grant of the requested Variance relief. The Planning Board further found that the Applicant satisfied the negative criteria for the grant of the requested Variance relief. The Planning Board found that the grant of the requested

Variance will not result in any substantial detriment to the public good. The Planning Board found that an attractive, solid vinyl fence along the Avenue C frontage is an appropriate amenity for the subject property and will not have any adverse impacts upon the streetscape. The proposed location of the fence will not impede the sight triangle for the intersection of South Avenue and Avenue C, and will not impair the visibility from the driveway of the adjacent lot 178. Consequently, the Planning Board found that the grant of the requested Variance will not result in any substantial adverse impacts upon the streetscape, the adjacent properties or the neighborhood. The Planning Board further found that grant of the requested Variance relief will not result in any substantial impairment of the Zone Plan or Zoning Ordinance. The Planning Board found that the fence height restriction set forth in the Ordinance is designed to permit some visibility in front yards and to avoid properties creating an appearance of an enclosed, gated community. It also anticipates that higher fences than the 4 feet permitted in a front yard area will be available to properly screen side and rear yards used for recreation from adjacent properties. In this case, the subject property has dual frontages. The existing residence is oriented toward South Avenue and the yard along the frontage of Avenue C functions principally as an effective side/rear yard recreational area. Permitting the Applicant to have a 6 foot fence in this area is not inconsistent with the Ordinance which anticipates having 6 foot fences in side and rear yards to provide adequate screening of recreational portions of residential properties. In this case since the area along Avenue C functions principally as a side/rear yard area for recreational purposes the grant of this Variance does not adversely impact upon the purposes for which the Ordinance was designed.

**APPROVED**

<u>App.#</u>	<u>Block &amp; Lot #</u>	<u>Street Address</u>	<u>Applicant/Relief</u>	<u>Zone District</u>
PB#21-14	Bl. 106, Lots 3,4 &5	999 Hwy. Rt. 36	Starbucks	HC
			<b>Use Variance/Bulk Variances/Site Plan</b>	

The Applicant applied to the Planning Board of the Borough of Atlantic Highlands for Use Variance, Bulk Variance and Site Plan approval to convert an existing vacant building into a Starbucks with drive thru component.

**PENDING**

<u>App.#</u>	<u>Block &amp; Lot #</u>	<u>Street Address</u>	<u>Applicant/Relief</u>	<u>Zone District</u>
PB#21-19	Bl. 84, Lot 11	73 Memorial Parkway	Rodriguez	OR
			<b>Bulk Variance/Signage</b>	

The Applicant applied to the Planning Board of the Borough of Atlantic Highlands for Bulk Variance approval to install a 12 ft. by 12 ft. (24 sq. ft.) LED sign where 6 sq. ft. is the maximum permitted.

**PENDING**

<u>App.#</u>	<u>Block &amp; Lot #</u>	<u>Street Address</u>	<u>Applicant/Relief</u>	<u>Zone District</u>
PB#21-21	Bl. 127, Lot 17	49 Center Ave.	Passman	R-1
			<b>Bulk Variance/Fence Height</b>	

The Applicant applied to the Planning Board of the Borough of Atlantic Highlands for Bulk Variance approval to install a 6 ft. high solid fence in a front yard where 4 ft. is the maximum height permitted.

**PENDING**

<u>ZONING ANALYSIS</u>	<u>2021</u>	<u>2020</u>	<u>2019</u>	<u>2018</u>
NUMBER OF APPLICATIONS	30	21	20	16
NUMBER GRANTED <sup>3</sup>	22	17	17	12
NUMBER DENIED	0 <sup>4</sup>	0	1 <sup>5</sup>	0
NUMBER DISMISSED	5	0	2	2
NUMBER STILL PENDING	3	4	0	2
 <u>APPLICATIONS BY ZONE</u>				
NUMBER IN R-1 ZONE*	17	12	6	8

<sup>3</sup> It should be noted that the high approval rate is the result of the Planning Board taking an active role in working with Applicants during the hearing process to suggest revisions to plans to improve design, diminish the extent of, or remove, variances and mitigate impacts in order to transform an unapprovable application into an approvable one. In addition some subdivision and site plan applications may have been fully conforming to the zoning regulations and required to be approved per the **Pizzo Mantin** case. Finally, applications may have been requests for either extension of approval period or minor administrative changes to previously approved plans.

<sup>4</sup> It is noted that there were a significant number of dismissed/withdrawals which may have been due to the applicant perception that the Planning Board would not approve the application and wanted to avoid a negative vote and application of principles of “res judicata” to a subsequent revised application.

<sup>5</sup> This application was “denied” / “dismissed” as the Planning Board determined that it did not have authority to grant the relief requested by the applicant.

NUMBER IN R-2 ZONE	3	2	2	1
NUMBER IN R-3 ZONE	4	3	6	5
NUMBER IN HBD ZONE	3	3	2	0
NUMBER IN CBD ZONE*	1	2	3	3
NUMBER IN LI ZONE	1	0	0	0
NUMBER IN OR ZONE	1	1	1	0
NUMBER IN SC ZONE	0	0	0	0
NUMBER IN MF-2 ZONE	0	0	0	0
NUMBER IN HB ZONE	0	1	0	0

**RELIEF SOUGHT**

EXTENSION OF APPROVAL	1	1	2	1
APPEAL FROM ZONING OFFICER	0	0	0	0
MAJOR SUBDIVISION*	1	0	1	2
MAJOR SITE PLAN*	7	4	3	2
MINOR SUBDIVISION*	2	4	2	2
MINOR SITE PLAN*	0	0	0	1
SITE PLAN WAIVER*	0	1	0	0

<b>CONDITIONAL USE*</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>0</b>
<b>USE VARIANCE *</b>	<b>10</b>	<b>3</b>	<b>6</b>	<b>5</b>
<b>BULK VARIANCE*</b>	<b>23</b>	<b>18</b>	<b>14</b>	<b>14</b>
<b>DEVIATION FROM CONDITIONS OF APPROVAL</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>0</b>

**\*NOTE: APPLICATIONS MAY HAVE INVOLVED MULTIPLE RELIEF  
RESULTING IN MORE ITEMS FOR RELIEF SOUGHT THAN APPLICATIONS**

**NATURE OF APPLICATION**

<b>COMMERCIAL</b>	<b>8</b>	<b>5</b>	<b>5</b>	<b>2</b>
<b>MIXED COMMERCIAL/RESIDENTIAL</b>	<b>2</b>	<b>3</b>	<b>1</b>	<b>2</b>
<b>MULTI-FAMILY/HIGH DENSITY</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>0</b>
<b>SINGLE FAMILY RESIDENTIAL</b>	<b>19</b>	<b>16</b>	<b>13</b>	<b>12</b>
<b>NEW CONSTRUCTION</b>	<b>4</b>	<b>6</b>	<b>5</b>	<b>4</b>
<b>TEAR DOWN/REBUILD</b>	<b>0</b>	<b>2</b>	<b>3</b>	<b>2</b>



<b>ADDITION</b>	<b>11</b>	<b>11</b>	<b>6</b>	<b>5</b>
<b>APPEAL FROM ZONING OFFICER</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>INTERPRETATION OF ORDINANCE</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>CERTIFICATION NONCONFORMING USE</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

**COMMENTS:**

The number of applications increased by nine (9) in 2021 and is a 50%+/- increase over immediate prior years. However it should be noted that five of the applications were dismissed due to lack of prosecution or withdrawal. Two of those withdrawn reapplied with a revised proposal or a different location. The economic recovery continues to be consistent notwithstanding the Covid-19 Pandemic. There was only one application for extension of a prior approval which is consistent with the past several years. The percentage of approvals is 100% of those cases concluded. This percentage is consistent with prior years. That the percentage of approvals remains high is in large part due to the boards interaction with applicants giving them feedback resulting in modifications to applications during the course of hearings resulting in their being approvable. In addition some applications were likely dismissed/withdrawn due to their decision that approval was unlikely. It has also may be due to applications being submitted “of right” without the need for variances. That was the case with the Denholtz subdivision application this year. A number of applications submitted required only diminimis new bulk variance approval for proposed improvements but had pre-existing nonconforming conditions. Several applications submitted were for residential home additions that required variance relief but maintained pre-existing nonconforming setbacks. In a number of cases the variances requested were minor (diminimis) in nature.

In 2021 the highest number of applications were for properties in the R-1 (56%) and R-3 (13%) zones. This percentage is a significant increase over prior years for the R-1 zone and somewhat consistet with prior years for the R-3 zone. The R-2 zone at 10.0 % is consistent with prior years dating back to 2013 but is a substantial decrease from the 25% experienced in 2012. Applications in the HBD zone at 10% is consistet with 2019 and 2020. It is still a significant decrease from the 25% in 2015 which was the highest in recent years. Nevertheless, this fluctuation is historically consistent with prior years. There was only one application (3%) in the CBD zone which is a decrease from the prior three years. There was one application in the OR zone and no

applications in the HB zone which is consistent with recent years. The LI zone had one application which is a slight increase over recent years which had no applications. The SC zone had no applications which is consistent with recent years. The MF-2 zone had no applications which is consistent with recent years except 2016 when there were two applications for the same property. There continues to be interest in constructing new and improving existing residential homes, as well as in developing commercial properties in Atlantic Highlands. It appears that the level of activity has rebounded to the levels that preceded the recession which bottomed in 2009.

Bulk variances continue to be the most sought approvals and were a component in 76% of applications. This is slightly lower than 2020 (86%) but consistent with prior years and higher than pre-2012 levels which hovered at 50%. Two applications were made for increased fence height in a front yard of 6 ft. where 4 ft. is the maximum permitted. That is a change from immediate prior years where no requests were made but is consistent with requests made prior to the governing body's ordinance amendments respecting the calculation fence height which constituted a reaffirmation that it intends variances from the fence height limitations be given only sparingly and where substantial proofs have been submitted.

There were seven site plan applications. However, all of them involved existing buildings to repurpose them for a new tenant, use or both. As a result most of the applications requested substantial waivers or relaxation of site improvements since little or no exterior improvements were requested. The number of minor subdivisions is consistent with recent years. The number of use variance applications increased significantly by nearly 100%. Six (60%) of those involved a change or expansion of uses in existing buildings. The other four (40%) were residential home additions exceeding the FAR. The applications appear to reveal a trend toward a wider variety of uses and the desire of residential homeowners for more useable living space. There were no appeals from zoning officer decisions, no conditional use applications and no requests for deviation from conditions of approval. This is consistent with recent years.

Single family home applications accounted for approximately 64% of all applications. Twelve (63%) involved home additions. Three (16%) involved generator pads. Additions is consistent with prior years. Generator pads is a significant increase over the past several years where there were none. Commercial applications at 27% was consistent with prior years which ranged between 20% and 33.3%..

Except as set forth above there do not appear to have been any major trends experienced in 2021. Nor have there been a significant number of applications requesting relief from a specific ordinance provisions creating concern for the need to consider recommendations for changes due to their adverse impacts on properties. There have been applications that raised questions that may be considered for zoning ordinance amendments that are discussed below.

## **RECOMMENDATIONS FOR ZONING ORDINANCE AMENDMENT OR REVISION<sup>6</sup>**

1. **Accessory Structures.** In 2016 one applicant with an in ground swimming pool wished to place a "cabana" for the pool to house pool equipment. The structure was in dimension similar to a shed structure. Therefore, the zoning officer classified it as a "shed". Section 150-54 permits accessory buildings (plural). It does not limit the number of accessory buildings, but limits the number of accessory sheds to one (1) per lot. In this case the property owner was required to seek variance approval for the "cabana" since it had the physical characteristics of a shed, even though it was not utilized as a shed. In 2017 an application was made to replace a prior

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<sup>6</sup> Some recommendations are carried over from the 2019 annual report and some result from applications considered in 2020.

accessory “Guest House” with an accessory ”Pool House”. Consideration may be given regarding clarifying what constitutes a “shed” as opposed to an “accessory building” , “cabana” or “pool house” and whether a limitation on the number of accessory structures other than sheds should be considered. Moreover, at present pool cabanas or similar accessory structures are not dealt with explicitly in the Ordinance. Consideration as to whether specific guidelines for these structures may be appropriate. This suggestion has been in several annual reports without action. The Planning Board may wish to eliminate further reference to it.

2. **Traffic Analysis.** The Planning Board has had several applications involving developments with the potential to generate significant traffic. The Ordinance has provisions for the Planning Board engineer to determine whether to engage a traffic consultant and, if so, the minimum required investigation that the expert must perform. The Planning Board also has the discretion under the MLUL to engage a traffic expert on its own. However, this usually will not occur until the application has commenced. Consideration should be given as to whether it is appropriate to require a traffic analysis to be required as a completeness requirement for applications exceeding a certain level of traffic generation.

3. **Trash Disposal Containers.** During one application it was suggested that the Governing Body may wish to review the Zoning Ordinance with respect to regulations guiding the placement and appearance of trash storage containers and to develop an improved strategy to remove what may be considered to be “eyesores”.

4. **UFAR.** The Governing Body may wish to review FAR requirements in residential zones to determine whether it is appropriate to relax UFAR requirements.

5. **Variety of Permitted Uses.** The Governing Body may wish to review the permitted uses in the business zones to determine whether a wider variety of uses may be compatible in those zones