

**ANNUAL REPORT FOR YEAR 2018
OF ATLANTIC HIGHLANDS UNIFIED
PLANNING BOARD/ZONING BOARD OF ADJUSTMENT**

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.

<u>App. #</u>	<u>Block & Lot #</u>	<u>Street Address</u>	<u>Applicant / Relief</u>	<u>Zone District</u>
PB17-12	Block 101, Lots 4.02 & 5	158 First Avenue	P & C 2, LLC Preliminary & Final Site Plan Approval With Bulk & Use Variances	CBD/R-1

The Applicant applied to the Planning Board for approval to construct a three-story mixed-use residential and commercial building. The first floor was to contain a 4,340 sq. ft. commercial retail space and a 3,983 sq. ft. area for accessory shared residential uses. The second and third floors were to contain ten (10) one-bedroom dwelling units and eight (8) two-bedroom dwelling units with a rooftop activity area. The following variances were required: (A) twenty-eight (28) off-street parking spaces provided where fifty-six (56) off-street parking spaces are required; (B) no dedicated loading space for the commercial component where loading space is required; (C) Lot coverage of 76.1% where 75% is permitted; (D) accessory side yard setback of 2 ft. where 5 ft. are required; (E) rear yard setback of 2 ft. where 5 ft. are required; (F) impervious coverage of 77% where 50% is permitted; (G) use variance to permit a parking in the R-1 Zone District. The subject property is split-zoned with it's frontage along First Avenue being CBD Central Business District Zone and the remainder of the property being in the R-1 Residential Zone District. The subject property is vacant and has been

the subject of an environmental clean-up due to prior use of the property which has been conducted under the direct supervision by N.J.D.E.P licensed site remediation professional (LSRP). Notwithstanding the number of variances necessary, the Applicant presented substantial expert testimony from a licensed professional Architect, licensed professional civil Engineer, licensed professional traffic Engineer and licensed professional Planner, who the Board found adequately addressed the requested relief and satisfied the positive and negative criteria for the grant of variance relief relating thereto.

Public concerns focused principally upon (1) the impacts, during the construction phase, on the adjacent elementary school and neighborhood. Those concerns are principally addressed by Section 150-67 of the Ordinance, (2) Traffic impacts on the elementary school which concerns were addressed by the applicant's traffic Engineer, (3) impacts of the roof top lounge/recreation area for residents which concerns were addressed by the Applicant's experts but which the Planning Board acknowledges that there are presently no specific Regulations in the Zoning Ordinance imposing controls upon such roof top amenities, and (4) the adequacy of parking which is a continuing concern within the Borough but which the Planning Board found that, in this application, the experts demonstrated the adequacy of the proposed parking.

APPROVED

<u>App. #</u>	<u>Block & Lot #</u>	<u>Street Address</u>	<u>Applicant / Relief</u>	<u>Zone District</u>
PB16-13	Block 8 Lot 23.01	25 Bayside Drive	J & L Bayside Drive, LLC	R-3
			Bulk Variance/Subdivision	

This application commenced as a request for variance approval to construct a single family residence on an undersized Lot of record. The application continued over many months with substantial opposition from neighboring residents. Adjacent property owners on three sides of the subject parcel reached Agreement to purchase the property from the Applicant for assemblage to their Lots. The Application has now been amended to a subdivision application to accomplish a division of this existing Lot and assembling portions thereof to the four adjacent properties. The revised application is presently undergoing completeness review.

PENDING

<u>App. #</u>	<u>Block & Lot #</u>	<u>Street Address</u>	<u>Applicant / Relief</u>	<u>Zone District</u>
PB17-11	Block 112 Lot 1	135 First Avenue	Greenleaf, LLC Minor Site Plan Approval with variances	CBD

The Applicant applied to the Planning Board for minor site plan approval to construct an exterior sliding door to access an outdoor seating area, to permit the retention of a non-conforming building mounted sign and the following variances: (A) retain three (3) existing off-Street parking spaces where twelve (12) off-Street parking spaces are required; (B) Lot coverage of 89.3% where 75% is permitted. The Planning Board noted that the subject property is a fully developed parcel that the outdoor patio area, which is an existing condition, will provide an attractive amenity contributing to the First Avenue streetscape and pedestrian friendly atmosphere. The Planning Board found that the non-conforming elements are existing conditions which are not exacerbated by the minor proposed improvements. Parking was also a concern of the Planning Board for this application. However, insofar as the Applicant is not proposing to increase the intensity of the use, or the number of patrons, the property will continue to function adequately with existing parking, as it has in the past.

APPROVED

<u>App. #</u>	<u>Block & Lot #</u>	<u>Street Address</u>	<u>Applicant / Relief</u>	<u>Zone District</u>
PB18-04	Block 11 Lots 4, 8 & 9	8 Upper Prospect Rd.	Stukus Bulk Variance / Use Variance	R-3

The Applicant applied to the Planning Board for bulk variance and use variance approval to construct building additions to an existing dwelling. While the application was pending, but before the hearing, the Applicant decided not to move forward with the application and the Planning Board dismissed the application without prejudice.

DISMISSED

<u>App. #</u>	<u>Block & Lot #</u>	<u>Street Address</u>	<u>Applicant / Relief</u>	<u>Zone District</u>
PB18-03	Block 127 Lot 15	53 Center Avenue	Gamza	R-1

**Bulk Variances
For Side Setback**

The Applicant applied to the Planning Board for approval to construct a second floor addition to the rear of an existing dwelling requiring a variance to permit principal side yard setbacks of 3.7 ft. (one side) and 16.4 ft. (combined). The application was deemed incomplete and the Applicant was requested to submit additional materials in order to render the application complete and ready for hearing. In response the Applicant advised the Planning Board that he no longer wished to move forward with the application and requested that it be withdrawn. The Planning Board agreed to permit the withdrawal without prejudice.

WITHDRAWN

<u>App. #</u>	<u>Block & Lot #</u>	<u>Street Address</u>	<u>Applicant / Relief</u>	<u>Zone District</u>
PB18-08	Block 71 Lot 2	9 Grand Avenue	Cohn & Mumm	R-2

Bulk Variance/Fence

The Applicant applied to the Planning Board for variance approval to permit a 6 ft. high fence in a front yard area where a maximum 4 ft. fence is permitted. The Planning Board noted that the subject property has frontage on three (3) streets and that although the frontages on Cross Avenue and Eighth Avenue are technically front yards they actually function as the rear yard of the property. The Planning Board agreed with the Applicant that the unique characteristics of the property having three street frontages coupled with the shape of the property and topography resulted in a lack of privacy in the functioning rear yard of the residence and that the proposed 6 ft. high fence in the proposed location would not have adverse impacts upon the surrounding property owners.

APPROVED

<u>App.#</u>	<u>Block & Lot#</u>	<u>Street Address</u>	<u>Applicant/Relief</u>	<u>Zone District</u>
PB17-17	Block 23 Lot 24	210 Ocean Blvd.	Parasar Bulk Variance/ FAR Variance	R-3

The Applicant applied to the Planning Board for bulk and use variance approval to construct an exterior spiral stair landing addition to the second floor of an existing residence, to partially enclose an existing second floor deck area and create a third floor deck area, requiring variances for building coverage of 14.6% where 12% is permitted and 14.36% exists and floor area ratio of 0.302 where 0.175 is permitted and 0.286 exists. The Planning Board noted that the subject property is an undersized lot containing 13,300 sq. ft. where 30,000 sq. ft. are required. The Planning Board noted that the only increase in building coverage would be 32 sq. ft. for the stairway and the increase in floor area by enclosing a former second floor deck would be 206 sq. ft. The Planning Board found that the proposed increases in building coverage and floor area ratio were diminimis in extent and the Planning Board found the building coverage increase to be diminimis with little or no visibility to the streetscape or adjacent properties. The Board found that the property could accommodate the added floor area increasing the floor area ratio as enclosing an existing deck would not result in a larger home with more bedrooms, more occupants or more intense use of the structure.

APPROVED

<u>App.#</u>	<u>Block & Lot#</u>	<u>Street Address</u>	<u>Applicant/Relief</u>	<u>Zone District</u>
PB15-03	Block 17 Lot 8.01	170 Ocean Blvd.	Sullivan/Thomas Paine House, LLC 2 ND One-Year Ext. Of Approval	R-3

The Applicant was granted approval by Resolution adopted by the Planning Board August 13, 2015 for conditional use and site plan to convert an existing single family residential home into a bed and breakfast facility. The Applicant received an initial two year repose which concluded August 13, 2017. The Applicant received its first one-year extension of approval by Resolution adopted by the Planning Board September 14, 2017 extending the approval to August 12, 2018. The Applicant requested a second one-year extension of approval commencing on August 13, 2018 and concluding on August 12, 2019 which was granted. The Board found that there were no intervening changes in the zoning or the neighborhood since the initial approval.

APPROVED

<u>App.#</u>	<u>Block & Lot#</u>	<u>Street Address</u>	<u>Applicant/Relief</u>	<u>Zone District</u>
PB18-01	Block 19 Lot 1	233 E. Highland Ave.	Kozlowski	R-3
Bulk Variance/ FAR Variance				

The Applicant applied to the Planning Board for variance approval to demolish an existing residential dwelling and to construct a new residential dwelling on the property, including a two-story single family residence, attached garage, attached deck, driveway, sidewalk and septic system with the following variances: (A) front yard setback of 7.5 ft. where 25 ft. are required; (B) building coverage of 13% where 12% is permitted; (C) steep slope disturbance of 8,450 sq. ft. where 3,748 sq. ft. are permitted; (D) floor area ratio of 0.242 where 0.175 is permitted. the Planning Board found that the property has existing non-conforming elements that create a hardship for constructing a conforming residence on the property, including undersized Lot area of 13,199.3 sq. ft. where 30,000 sq. ft. are required, Lot frontage and width of 44.82 ft. where 100 ft. are required and Lot shape diameter of 12.5 ft. where 60 ft. are required. The Planning Board noted the substantially undersized and irregularly shaped Lot with three (3) frontages on E. Highland Avenue, Gawen Road and Ronald Way. The Planning Board acknowledged that the foregoing factors significantly limit the ability to develop the property without variance relief. The Planning Board noted that applying the required setbacks would leave virtually no building footprint within which to place a structure. Consequently relief was required in order to permit the use of the property. The Planning Board further found that the site currently accommodates a single family residence and post development of a new home will also accommodate a single family residence and could continue to do so.

APPROVED

<u>App.#</u>	<u>Block & Lot#</u>	<u>Street Address</u>	<u>Applicant/Relief</u>	<u>Zone District</u>
PB18-07	Block 134 Lot 12	97 Center Ave.	Dougherty	R-1
Bulk Variance				

The Applicant applied to the Planning Board for bulk variance approval to construct a second floor master bedroom addition to an existing single family residence, with a side yard setback of 9 ft. where 10 ft. are required and 9 ft. exist for the current first floor. The 9 ft. setback for the first story was granted variance relief in 2006. Adding a second floor above the existing first floor increases the extent of the variance requiring new variance approval. The Planning Board found that the existing conditions on the property, including it's narrowness

and location of lawfully existing structures created a hardship and that the impact of the addition would be diminished insofar as the existing residence already maintains the same setback requested which was granted by previous variance.

APPROVED

<u>App.#</u>	<u>Block & Lot#</u>	<u>Street Address</u>	<u>Applicant/Relief</u>	<u>Zone District</u>
PB18-05	Block 102 Lots 7 & 8	188-190 First Ave.	Atlantic Highlands Real Estate Partners, LLC	CBD
			Preliminary/Final Site Plan w/variances	

The Applicant applied to the Planning Board for preliminary and final major site plan approval with the following variances and waivers: (A) Variance to permit free-standing sign within 30 ft. of the right-of-way of State Highway Route 36 (Section 150-53(D)(1)); with a zero (0) ft. setback from the property line where 10 ft. are required (Section 150-69(L)(3))3. (B) Variance to permit artificial lighting footcandles exceeding 0.5 footcandles beyond the northerly property line onto adjacent commercial Lot 9. (Section 150-67(O)(1))(D) Design Standard Waivers: (A) Eleven (11) off-street parking spaces where fourteen (14) spaces are required (Section 150-89B(1))(B), Parking located in a front yard area (Section 150-89B(5)(c)), (C) Driveway of greater than 25 ft. in width without physical dividing barrier (Section 150-89D(2)), (D) Driveway width exceeding 30 ft. (Section 150-89D(3)), E. Driveway located within 50 ft. of intersection (Section 150-89D(3)). The Applicant proposed to demolish an existing automotive service station with one-story accessory structure and a two-story commercial building utilized as a bicycle retailer and replace them with a single, one-story convenience store with associated on-site parking spaces, truck loading area, refuse enclosure, retaining walls, fencing, concrete sidewalks, signs, lighting, storm drainage, utility connections and landscaping. The Hearing of the application spanned over three meetings in June, July and August. During the course of the hearing the Applicant re-designed the plans in response to concerns expressed by the Board and members of the public. The Applicant also presented substantial expert testimony from a licensed civil Engineer, licensed traffic Engineer and licensed professional Planner. Notwithstanding substantial citizen opposition to the application, the Planning Board found that the two variances required were minor in nature and that the design standard waivers requested were reasonable within the context of the site plan applied for. The Board also imposed eighteen special conditions on the approval.

APPROVED

<u>App.#</u>	<u>Block & Lot#</u>	<u>Street Address</u>	<u>Applicant/Relief</u>	<u>Zone District</u>
PB18-11	Block 128 Lot 13.01	53 Bay Ave.	Reinauer/CRH, LLC Bulk Variance/ Side setback	R-1

The Applicant applied to the Planning Board for bulk variance approval to construct a new frame deck attached to an existing dwelling with a side yard setback of 2.7 ft. where 10 ft. are required. The Planning Board found that the property is an elongated rectangle in shape which is narrow and deep and an undersized Lot of record. Those factors coupled with the location of the existing home limits the area within which an accessory deck structure could be located resulting in a hardship. The Planning Board further noted that the proposed deck was replacing a previous wood deck that had become so deteriorated that it had to be removed. Once removed a variance was necessary to replace it. The Planning Board found that the grant of variance relief was justified as the relief requested was diminimis insofar as it replaces a previous deck in the same location following the existing setback of the residence and will have minimal diminimis impacts as it is only several inches above ground level.

APPROVED

<u>App.#</u>	<u>Block & Lot#</u>	<u>Street Address</u>	<u>Applicant/Relief</u>	<u>Zone District</u>
PB18-09	Block 143 Lots 14 & 15	135 Center Ave.	Musone Minor Subdivision / Bulk Variance/Use Variance	R-1

The Applicant applied to the Planning Board for minor subdivision approval with variances to permit the consolidation of Block 143, Lots 14 and 15 and their re-subdivision into two (2) new Lots. New lot 15.01 will retain an existing two-story residential dwelling with non-conforming rear yard setback of 5.7 ft. where 20 ft. are required, new Lot 15.02 will retain an existing two-story frame garage with non-conforming side yard setback of 2.1 ft. where 5 ft. are required and use variance to permit an accessory structure on a Lot with no principal building. During the course of the hearing it was determined that new Lot 15.02 also required variance relief to have a driveway side yard setback of 4 ft. where 5 ft. are required and accessory building height of 18 ft. where 16 ft. are permitted. The Planning Board noted that that principal building rear yard setback for new Lot 15.01 is an existing condition which is appropriate to continue. The Planning Board further found that 2.1 ft. side yard setback for new Lot 15.02 is an

existing condition which can be continued further finding that the accessory building side yard setback building height and driveway setback are also existing conditions which may be retained. The Planning Board found that the use variance could be granted provided that a condition is imposed that the building not be used for any purpose until such time as a principal building is constructed on the new Lot. The Planning Board agreed that granting variance relief would also serve to continue the existing historic structures on this property.

APPROVED

<u>App.#</u>	<u>Block & Lot#</u>	<u>Street Address</u>	<u>Applicant/Relief</u>	<u>Zone District</u>
PB18-12	Block 89 Lots 1.01 & 1.02	37 E. Washington Ave.	Senz/Brekke	R-1
			Minor Subdivision/ Variance	

The Applicant applied to the Planning Board for minor subdivision approval for a "Lot line adjustment" to re-locate the Lot line between existing Lots 1.01 and 1.02 including the conveyance of approximately 763 sq. ft. from existing Lot 1.01 to Lot 1.02 resulting in the retention of an existing nonconforming front yard setback of 19.8 ft. where 20 ft. are required on new Lot 1.011 and improving the existing non-conforming accessory building rear setback to 4.8 ft. where 5 ft. are required and 0 ft. exist. New Lot 1.02 will retain an existing side yard setback of 9 ft. where 10 ft. are required, building height of three (3) stories where 2.5 stories are permitted and building height of 50.8 ft. where 35 ft. are permitted with a new variance for floor area ratio of 0.4242 where 0.40 is permitted. The purpose of this subdivision "Lot line adjustment" is to resolve a property line issue between the adjacent property owners with respect to an existing easement area along the common property line. The Planning Board recognized that, with the exception of the accessory side yard setback for new Lot 1.011 which is being improved and the diminimis floor area ratio increase, all of the other variances are existing conditions. The Planning Board agreed with the Applicant that, insofar as there is an existing fence along the proposed new property line, the approval will not have any visual impacts as it currently gives the appearance of being the property line between the two parcels. Moreover, the Planning Board agreed that the elimination of the easement area would resolve certain title issues for the property owners and that the grant of the variance would promote the purposes of the Municipal Land Use Law and would not have any substantial detrimental impacts upon the public good or the Zone plan.

APPROVED

<u>App.#</u>	<u>Block & Lot#</u>	<u>Street Address</u>	<u>Applicant/Relief</u>	<u>Zone District</u>
PB18-10	Block 127 Lot 1	73 Avenue "A"	Tartivita Variance	R-1

The Applicant applied to the Planning Board for approval to construct a new two-story dwelling on an existing undersized Lot with an 18 ft. wide paved driveway, concrete driveway apron and the removal of an existing asphalt driveway requiring variance relief to permit a front yard setback of 14 ft. (revised to 13 ft. during the course of the hearing) where 20 ft. are required and a floor area ratio of 0.46 where 0.40 is permitted. The Planning Board noted that variance relief had previously been given for the subject property which variance expired. The Planning Board found that the diminimis increase in floor area ratio is appropriate under the circumstances due to this being an undersized lot and that a reasonable sized home as proposed by the Applicant will be consistent with the surrounding neighborhood. The Planning Board further found that the front yard setback variance is appropriate under the circumstances as it is required to accommodate a stairway and landing to the first livable floor area due to the property being located within a flood Zone requiring elevation of the first floor and the need for stairways and landings of adequate size for emergency access. The Board granted greater variance relief for front yard setback than was requested so that properly sized stairway and landings could be constructed. The Planning Board also noted that the stairway and landing area will have diminimis impacts insofar as the structure has no walls and is an open access to the front door of the premises.

APPROVED

<u>App.#</u>	<u>Block & Lot#</u>	<u>Street Address</u>	<u>Applicant/Relief</u>	<u>Zone District</u>
PB18-06	Block 142 Lot 5	17 Avenue "D"	Denholtz Custom Homes Preliminary and Final Major Subdivision	R-1

The Applicant applied to the Planning Board to subdivide a 7+ acre site into twenty-one (21) single family residential Lots, serviced by a loop roadway requiring several variances for Lot shape diameter and several design standard waivers. During the course of the hearing the Applicant revised the proposal reducing the number of residential Lots from twenty-one (21) to sixteen (16), eliminating the need for variance relief and reducing or eliminating the need for design standard waivers.

The application has been the focus of substantial public interest and participation and the hearings have not yet been concluded.

PENDING

<u>ZONING ANALYSIS</u>	<u>2018</u>	<u>2017</u>	<u>2016</u>	<u>2015</u>
NUMBER OF APPLICATIONS HANDLED	16	20	15	12
NUMBER GRANTED ¹	12	14	13	10
NUMBER DENIED	0	1	1	1
NUMBER WITHDRAWN	2	1	1	1
NUMBER STILL PENDING	2	4	0	0
 <u>APPLICATIONS BY ZONE</u>				
NUMBER IN R-1 ZONE	8	8	6	5
NUMBER IN R-2 ZONE	1	1	1	1
NUMBER IN R-3 ZONE	5	6	4	2
NUMBER IN HBD ZONE	0	3	2	3
NUMBER IN CBD ZONE	3	3	0	2
NUMBER IN LI ZONE	0	0	0	1
NUMBER IN OR ZONE	0	0	0	0
NUMBER IN SC ZONE	0	0	0	0
NUMBER IN MF-2 ZONE	0	0	2	0

¹ It should be noted that the high approval rate is in part 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.

<u>RELIEF SOUGHT</u>	<u>2018</u>	<u>2017</u>	<u>2016</u>	<u>2015</u>
EXTENSION OF APPROVAL	1	1	1	1
APPEAL FROM ZONING OFFICER	0	0	0	3
MAJOR SUBDIVISION* / **	2	0	0	0
MAJOR SITE PLAN*	2	4	2	4
MINOR SUBDIVISION*	2	2	4	3
MINOR SITE PLAN*	1	2	2	0
SITE PLAN WAIVER*	0	1	0	3
CONDITIONAL USE*	0	0	0	4
USE VARIANCE *	5	3	4	3
BULK VARIANCE*	14	16	9	6
DEVIATION FROM CONDITIONS OF APPROVAL	0	0	0	1

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

**** ONE APPLICATION STILL PENDING IS FOR LOT LINE ADJUSTMENT AND INVOLVES FIVE LOTS PROPOSED TO RESULT IN FOUR LOTS. ALTHOUGH, IF APPROVED, IT WILL RESULT IN FEWER TOTAL LOTS IT DOES NOT MEET THE DEFINITION OF A "MINOR SUBDIVISION" AS IT WILL CREATE MORE THAN THREE "NEW" LOTS.**

<u>NATURE OF APPLICATION</u>	<u>2018</u>	<u>2017</u>	<u>2016</u>	<u>2015</u>
COMMERCIAL	2	6	4	3
MIXED COMMERCIAL/RESIDENTIAL	2	1	1	3
MULTI-FAMILY/HIGH DENSITY	0	0	1	0
SINGLE FAMILY RESIDENTIAL	12	13	9	4
NEW CONSTRUCTION	4	2	4	5
TEAR DOWN/REBUILD	2	0	1	1
ADDITION	5	8	3	1
APPEAL FROM ZONING OFFICER	0	0	0	3
INTERPRETATION OF ORDINANCE	0	0	0	2
CERTIFICATION NONCONFORMING USE	0	0	0	0

COMMENTS;

The number of applications decreased twenty percent (20%) from 2017 but is the consistent with prior year 2016. This may be an indication that the robust economic environment in 2017 has cooled somewhat. There was only one application for extension of a prior approval which is consistent with the past six (6) years. The percentage of approvals is 85.7% of those cases concluded and does not include cases that remain pending. This percentage is consistent with prior years. The percentage of approvals remains high and is in large part due to the boards interaction with applicants giving them feedback resulting in modifications to applications in order to make them approvable. In the past it has also been due to a number of applications being submitted "of right" without the need for variances. A number of applications submitted did not require new bulk variance approval. 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. The number of denials, dismissals and withdrawals remained low at 14%.

In 2018 the highest number of applications (50%) were for properties in the R-1 zone. This percentage is consistent with 2017, 2016 and 2015. It is also consistent over time as the highest number of applications continues to be for properties in the R-1 zone. The R-2 zone at 6.0 % is consistent with immediate prior years 2017, 2016 and 2015. The R-3 zone continues to generate the second largest number of applications at 31% which is an increase over the 30% in 2017, 26.6% in 2016 and 16.6% in 2015 but is otherwise consistent with prior years. Applications in the HBD zone fell to 0% which is down from the 15% in 2017 and 13.3% in 2016 and a substantial decrease from the 25% in 2015 which was the highest in recent years. This fluctuation is historically consistent with prior years, but could reflect that the economic recovery has caught up with the limited number of properties available for development in that zone. There were three applications (18.75%) in the CBD zone which is an increase over 2017 (15%), 2016 (0%) when there were no applications in this zone and 2015 (13.3%) and remains a significant decrease from the activity in prior years, 2014 (26.6%), 2013 (22.2%). The LI zone had no applications which is consistent with prior years. The OR zone had no applications which is consistent with prior years. The SC zone had no applications which is consistent with prior years. The MF-2 zone had no applications which is consistent with prior 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 intensity of activity has rebounded to the levels that preceded the recession which bottomed in 2009 and may be leveling off.

Bulk variances continue to be the most sought approvals and were a component in 87.5% of applications. This is somewhat higher than 2017 (80%) and 2016 (60%) which was consistent with prior years and slightly higher than pre-2012 levels which hovered at 50%. It should be noted that only one application sought increased fence height which had been a significant percentage of variance requests in prior years. This may be responsive 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 two major subdivision applications (both of which remain pending), two minor subdivision applications, two major site plan applications, one minor site plan application, no site plan waiver applications, and three use variance applications. This is consistent with prior years and the applications do not appear to demonstrate any repeated trends or issues. There were no applications for appeal from zoning officer decisions, conditional use approval or deviations from conditions of approval. This is also consistent with prior years.

Single family home applications accounted for approximately 75% of all applications. More than 40% of those involved home additions. This is a substantial decrease from the 60% in 2017. It is somewhat consistent with 2016 (40%) and 2015 (27%) but remains below the 80% high in 2014. Commercial applications at 25% was consistent with prior years which ranged between 20% and 33.3%..

There do not appear to have been any major trends experienced in 2018. 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. Several applications attracted substantial public interest raising old and new issues that may be considered for inclusion in the 2019 Master Plan Revision and/or for zoning ordinance amendments that are discussed below which discussion also retains items from the 2017 Annual Report which are still relevant.

RECOMMENDATIONS FOR ZONING ORDINANCE AMENDMENT OR REVISION²

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 accessory “Guest House” with an accessory “Pool House”. It may be appropriate to consider an ordinance amendment 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.

2. **Building Height.** In 2017 there was an application in a steep slope area for a residence that had four levels, two of which were below the finished grade of the front of the building. The first level below finished grade of the front of the building did not have more than half of its volume above the finished grade of the front of the building and therefore could not be classified as a “basement”. In addition, that level had more than half of its cubic volume above the average level of the adjoining ground and therefore could not be classified as a “cellar”. The second level below finished grade at the front of the building had similar characteristics. The ordinance definitions are difficult to reconcile for properties located in steep slope areas. Consideration should be given as to whether the definitions of “basement” and “cellar” should be revisited to provide clarity to their application and particularly to determine what is intended to constitute a “story” for purposes of determining the height of the building.

3. **Parking Requirements.** The Ordinance presently provides that in the HBD and CDB zones the off-street parking requirement may be satisfied in whole or in part by evidence that the required amount of parking has been or will be provided in public or privately operated lots available for the use of the general public. The Planning Board has previously recommended that the Ordinance be revised to include an exhibit to graphically show the limits beyond which this provision does not apply. Applications for development in these zones have routinely provided deficient, or no, on-site/off-street parking and rely on this provision to meet their parking requirements. The Planning Board has concern as to the capacity of the existing public lot to handle these parking needs. This issue is included in the Draft 2019 Master Plan Revision with short term and long term goals which will be the subject of public hearings during the coming months of 2019. The Planning Board continues to be concerned as to the adequacy of existing public parking areas to address the parking needs of existing and future development in order to accommodate residents and the general public visiting the Borough to take advantage of its public, business, retail, commercial, service, restaurant and entertainment enterprises. If not, consideration should be given as to what zoning and planning alternatives may be available to address the need.

4. **Steep Slopes.** The Planning Board has had a significant number of applications requesting relief from the steep slope limitations on impervious coverage and lot disturbance. The Planning Board has the following concerns that may justify consideration of Ordinance revisions:

- a. Applicants removing existing impervious coverage and contending that such areas, even though previously disturbed, should not be included as disturbed or impervious areas so that

² Some recommendation are carried over from the 2016 annual report and some result from appoiations considered in 2017.

areas elsewhere may be disturbed for new development. (ie. removing a concrete patio on one side of a lot so that an addition can be constructed on the other side of the lot)

b. Applicants have been requested by the Planning Board to provide geotechnical reports to demonstrate slope stability to support proposed construction on steep slope lots. Since these reports are not required as part of the submission checklist requirements Applicants express surprise and resistance when the materials are requested by the Planning Board during the course of a hearing which results in adjournments, delay in processing the application and additional unanticipated cost to the Applicant. Consideration may be appropriate to establishing Ordinance submission guidelines as to when such information, and what information, shall be required as part of the completeness review.

5. **Rooftop Uses.** The Planning Board has had several applications involving developments proposing rooftop uses. This is both in the residential context for rooftop recreation areas and in the commercial context for rooftop bar/restaurant use. Consideration should be given as to whether it is appropriate to establish specific ordinance provisions controlling the development and use of these areas including, among other things, noise control, prevention of rooftop debris, etc.

6. **Traffic Impacts.** The Planning Board has had several applications involving developments in perceived "traffic congested areas" along First Avenue. Consideration may be given to requiring that a traffic and parking impact analysis be provided as a checklist requirement for applications in these areas. (i.e. HBD, CBD and possibly LI Zones)

7. **Construction Impacts.** The Planning Board has had several applications where significant public concerns were raised regarding the impacts of construction upon neighboring and nearby properties. Although these concerns regarding noise, smoke, airborne particles, vibration and the like are largely addressed in Section 150-67 and 150-68 of the Ordinance the Governing Body may wish to revisit these provisions with the Police, Construction, Fire, Code Enforcement and Emergency Management departments to determine whether additions or revisions are appropriate.