IN THE MATTER OF
APPLICATION NO. PB16-13
OF J&L BAYSIDE DRIVE, LLC
BLOCK 8, LOT 23.01

RESOLUTION GRANTING
MINOR SUBDIVISION
APPROVAL

WHEREAS, J&L BAYSIDE DRIVE, LLC, hereinafter the
"Applicant", has proposed the development of property located at
25 Bayside Drive, in the Borough of Atlantic Highlands, County
of Monmouth, and State of New Jersey which property is further
known and designated as Block 8, Lot 23.01 on the Tax Map of the
Borough of Atlantic Highlands; and

WHEREAS, the Applicant initially applied to the Planning
Board of the Borough of Atlantic Highlands for variance approval
to construct a single family residential home on the subject
property with multiple variances. During the course of the
hearings the Applicant agreed to sell the subject parcel to
adjacent neighbors for assemblage to their Lots resulting in the
elimination of Lot 23.01 and its absorption into adjacent Lots
23, 34, 35 and 41 pursuant to a subdivision plan prepared by
Richard E. Stockton & Associates dated February 26, 2019; and

WHEREAS, The subject property is located in the R-3
Residential Zone District and single family residential homes
with associated accessory structures are a permitted use in the
Zone; and

WHEREAS, the Applicant appeared before the Planning Board
of the Borough of Atlantic Highlands on March 9, 2017, May 11,
2017, February 8, 2018, March 14, 2019 and September 12, 2019
respectively, due notice of said meetings having been given in
accordance with New Jersey Statutes, the Open Public Meetings Act and the Municipal Land Use Law and a quorum of the Planning Board being present, the application was heard; and

WHEREAS, the Applicant's witnesses were sworn and the Planning Board having heard the testimony of the Applicant's witnesses and having examined the exhibits submitted by the Applicant and having considered all of the evidence presented in favor of or in opposition to the application the Planning Board has made the following findings of fact:

1. The Planning Board has received and reviewed the following documents, exhibits and reports:

1.1 Topographical and steep slope review prepared by Richard E. Stockton dated August 20, 2014 revised April 5, 2015, marked as Exhibit A-1 in evidence.

1.2 Architectural plans prepared by Edmund H. Gaunt, A.I.A. dated September 12, 2016, marked as Exhibit A-2 in evidence.

1.3 Septic disturbance sketch prepared by Houser Engineering, LLC dated April 18, 2016, marked as Exhibit A-3 in evidence.

1.4 Application of J&L Bayside Drive, LLC marked as Exhibit A-4 in evidence.

1.6 Zoning review of Zoning Officer Michelle Clark dated November 2, 2016, marked as Exhibit A-6 in evidence.

1.7 Narrative of Intent marked as Exhibit A-7 in evidence.

1.8 LLC Resolution authorizing Mr. Hoffard to testify for the Applicant LLC, marked as Exhibit A-8 in evidence.

1.9 State of New Jersey treatment works approval dated December 7, 2016, marked as Exhibit A-9 in evidence.

1.10 Kennedy letter requesting Certification with offer to purchase to neighbors dated January 17, 2017, marked as Exhibit A-10 in evidence.

1.11 Kennedy letter to adjacent property owners offering purchase or sale dated January 17, 2017, marked as Exhibit A-11 in evidence.

1.12 Kennedy letter to adjacent property owners dated January 17, 2017, marked as Exhibit A-12 in evidence.

1.13 Kennedy letter to adjacent property owners dated January 17, 2017, marked as Exhibit A-13 in evidence.

1.14 Kennedy letter to adjacent property owners dated January 17, 2017, marked as Exhibit A-14 in evidence.

1.15 Tax Map with “X” marking similar sized or smaller Lots marked as Exhibit A-15 in evidence.
1.16 Memorandum from James Hoffard and Lisa Austin dated March 16, 2017, marked as Exhibit A-16 in evidence.


1.18 On-Site Sewage Disposal System Alteration prepared by J.R. Houser dated April 21, 2016 revised August 25, 2016, marked as Exhibit A-18 in evidence.

1.19 Sample “Drip Tubing” marked as Exhibit A-19 in evidence.

1.20 Letter to Attorney Leckstein re: offer of purchase marked as Exhibit A-20 in evidence.

1.21 Summary of Land Values marked as Exhibit A-21 in evidence.


1.23 Drainage Calculations prepared by Tyler C. Vandervolk dated August 17, 2017, marked as Exhibit A-23 in evidence.


1.27 KLUK Consultants, LLC Elevation Drawing dated April 5, 2017, marked as Exhibit A-27 in evidence.

1.28 Elevation and Floor Plans for Hoffard/Austin Residence prepared by Kaplan, Grant, DeSantis dated August 25, 2017, marked as Exhibit A-28 in evidence.


1.30 Limited Geotechnical Investigation prepared by Whitestone Associates, Inc. revised through November 27, 2017, marked as Exhibit A-30 in evidence.


1.32 Meehan Valuation Appraisal Report dated February 20, 2018, marked as Exhibit A-32 in evidence.

1.34 Completeness Review #1 prepared by CME Associates dated October 23, 2018, marked as Exhibit A-34 in evidence.

1.35 Minor Subdivision Plan prepared by Richard E. Stockton & Associates Inc. dated August 2, 2018 revised December 17, 2018, marked as Exhibit A-35 in evidence.

1.36 Completeness review #2 of CME Associates Inc. dated January 8, 2019, marked as Exhibit A-36 in evidence.


1.39 Article entitled “what’s wrong with this helical pile” undated, marked as Exhibit O-1 in evidence.

2. The premises in question are located 25 Bayside Drive, in the Borough of Atlantic Highlands, County of Monmouth and State of New Jersey which property is further known and designated as Block 8 Lot 23.01 on the tax map of the Borough of Atlantic Highlands.
3. The subject property is located in the R-3 Residential Zone District and single family residential homes with associated accessory structures are a permitted use in the Zone.

4. The property in question has approximate dimensions of 100.42 ft. x 100.43 ft. x 32.89 ft. x 68.62 ft. x 101.31 ft. and is substantially rectangular in shape with an approximate area of 9,754 sq. ft. The subject property is presently unimproved.

5. The initial Applicant was J&L Bayside Drive, LLC which proposed to construct a single family residential home on the subject property with multiple variance relief. That application was opposed by adjacent and nearby property owners and during the course of the hearing J&L Bayside, LLC agreed to sell the subject property to the adjacent property owners for assemblage with their properties. The present application proposes to Subdivide the existing Lot into four parcels each of which will be merged with an adjacent property, increasing the sizes of Lots 23, 34, 35 and 41. Lot 23 will receive approximately 3,901 sq. ft. Lot 34 will receive approximately 1,950 sq. ft. Lot 35 will receive approximately 1,950 sq. ft and Lot 41 will receive approximately 1,950 sq. ft. resulting in the elimination of existing Lot 23.01.

6. The Applicant appeared through Counsel Michael Leckstein, Esq. at the final September 12, 2019 Planning Board meeting and the revised application was presented. The Planning Board notes there are no new Lots as a result of this Minor Subdivision and there is actually the elimination of existing Lot 23.01 which is being absorbed into the four Lots adjoining. The Subdivision does not result in any variances being required.
The Planning Board finds that the Applicant has submitted a plat and such other information as is reasonably and necessary to make an informed decision as to whether the requirements necessary for Subdivision approval have been met. The Planning Board further finds that the detailed drawings, specifications and estimates of the application conform to the standards established by the Ordinance for Minor Subdivision and that Minor Subdivision can and should be granted at this time.

7. Although Notice was originally given for the hearing of the application when it required variance relief, the current application for Minor Subdivision approval with no variances required no notification to the public.

NOW THEREFORE, BE IT RESOLVED by the Planning Board of the Borough of Atlantic Highlands on this 10th day of October, 2019 that the application of the successors in interest to J&L Bayside Drive, LLC as amended be and is hereby approved, which approval is expressly conditioned upon compliance with the following terms and conditions:

GENERAL CONDITIONS –

1) This approval is subject to the accuracy and completeness of the submissions, statements, exhibits and other testimony filed with, or offered to, the Board in connection with this application, all of which are incorporated herein by reference and specifically relied upon by the Board in granting this approval. This condition shall be a continuing condition subsequent which shall be deemed satisfied unless and until the Board
determines (on Notice to the Applicant) that a breach hereof has occurred.

2) In the event that any documents require execution in connection with the within approval, such documents will not be released until all of the conditions of this approval have been satisfied unless otherwise expressly noted.

3) No taxes or assessments for local improvements shall be due or delinquent on the subject property.

4) The Applicant shall pay to the municipality any and all sums outstanding for fees incurred by the municipality for services rendered by the municipality’s professionals for review of the application for development, review and preparation of documents, inspections of improvement and other purposes authorized by the Municipal Land Use Law. The Applicant shall provide such further escrow deposits with the municipality as are necessary to fund anticipated continuing municipal expenses for such professional services, if any, in connection with the Application for Development as may be authorized by the Municipal Land Use Law.

5) The Applicant shall furnish such Performance Guarantees, Temporary Certificate of Occupancy Guarantees, Safety and Stabilization Guarantees, Maintenance Guarantees, Inspection Fees and such other Guarantees or fees as may be required pursuant to the Municipal Land Use Law and the Ordinances of this Municipality for the purpose
of assuring the installation and maintenance of on-tract/off-tract and private site improvements.

6) No site work shall be commenced or plans signed or released or any work performed with respect to this approval until such time as all conditions of the approval have been satisfied or otherwise waived by the Board.

7) Any and all notes, drawings or other information contained on any approved plans shall be conditions of this approval.

8) Nothing herein shall excuse compliance by the Applicant with any and all other requirements of this municipality or any other governmental entity. This approval is conditioned upon compliance by the Applicant will all Ordinances and Regulations of this Municipality.

9) In the event any de minimis exception has been granted from the Residential Site Improvement Standards Regulations in connection with this application, a copy of this resolution shall be sent to the New Jersey Department of Community Affairs, Division of Codes and Standards, 101 South Board Street, CN 802, Trenton, New Jersey 08625-0802 within thirty (30) days of the date hereof. Said copy of this resolution shall be clearly marked on its face with the words “SITE IMPROVEMENT EXCEPTIONS”.

10) In the event that the Applicant and the approving authority have agreed that exceeding a standard of the Residential Site Improvement Standards is desirable under
the specific circumstances of the proposed development, such Agreement to Exceed RSIS Standards shall be placed, in writing, by the developer and transmitted forthwith to the New Jersey Department of Community Affairs, Division of Codes and Standards, 101 South Broad Street, CN 802, Trenton, New Jersey 08625-0802.

11) The Applicant shall comply with the contribution requirements of the Municipal Affordable Housing Fund as applicable to this application.

12) In the event that this Application involves a subdivision or site plan, such subdivision or site plan shall expire at the conclusion of the period of protection from zoning changes provided for in N.J.S.A. 40:55D-49 or 40:55D-52.a, as applicable, and in no event shall extend beyond the fifth anniversary of the date of adoption of this resolution.

13) In the event that this approval involves the approval of a subdivision, the Applicant shall provide to the Board Engineer and attorney for review and approval, deeds for each of the lots created and shall file such deeds simultaneously with the recording of any subdivision plat.

14) All special conditions shall be included as notes on the plans.

15) All general and special conditions set forth in this Resolution shall be placed as notes on the approved plans as a Resolution compliance requirement.
16) The Applicant shall comply with the requirements of the Municipal Ordinances with respect to its Affordable Housing obligation by either providing the required affordable housing on-site, providing affordable housing off-site or making a contribution of an Affordable Housing fee pursuant to the applicable Municipal Ordinances. This approval is subject to the Applicant paying all applicable fees, including any fee due and owing to the Municipality’s Affordable Housing Trust Fund.

Affordable units in inclusionary developments shall have at least 50% low income units (of which at least 13% are very low income). The remaining affordable units shall be moderate income units. The bedroom distribution for affordable units shall be a minimum of 20% three-bedroom units and a maximum of 20% one-bedroom units.

17) This Resolution does not constitute a permit for the construction of the approved improvements. The Applicant shall be responsible for obtaining any and all permits and approvals required prior to the commencement of any development activities including, but not limited to, N.J.D.O.T., N.J.D.E.P., Monmouth County Planning Board, Freehold Soil Conservation District, Regional and/or Municipal Utility Authority approval, in addition to any and all building and construction permits, required by the Municipality. All work performed shall be in accordance with, and shall not deviate from, the approved plans and all applicable Federal, State, County and Local laws, rules and regulations.
18) As an essential and non-severable condition of this approval, the Applicant shall comply with all Mount Laurel obligations and shall comply with the Municipality's approved Housing Element and Fair Share Plan including but not limited to, any associated implementing Ordinances.

19) The scope of the review of this application is necessarily limited to planning, zoning and land use review of the site as compared to the requirements of the Municipality. The grant of this approval and of any permit or approval in connection therewith shall not constitute a representation, guarantee or warranty of any kind or nature by the Municipality or by any Municipal official or employee thereof with respect to the practicability or safety of any structure, use or other plan proposed and shall create no liability upon or cause of action against the Board, the Municipality or any officials or employees of the Municipality for any damage or injury that result from the construction of the improvements for which this Zoning approval is granted.

SPECIAL CONDITIONS -

1. The plans shall be revised to provide a utility easement along the property frontage running parallel to the southerly side of Bayside Drive extending from the property line to a point three (3) feet south of the existing storm drain.

BE IT FURTHER RESOLVED that nothing herein shall excuse compliance by the Applicant with any and all other requirements of this Municipality or any other governmental entity.
BE IT FURTHER RESOLVED that a written copy of this Resolution, certified by the Secretary of the Planning Board to be a true copy, be forwarded to the Applicant, the Code Enforcement Official of the Borough of Atlantic Highlands, and the Construction Code Official of the Borough of Atlantic Highlands. A written copy of the certified Resolution shall also be filed in the office of the Administrative Officer of the municipality, which copy shall be made available to any interested party and available for public inspection during normal business hours.

BE IT FURTHER RESOLVED that a proper notice of this decision be published once in the official newspaper of the municipality or in a newspaper in general circulation within the Borough.

OFFERED BY: MR. FLIGOR

SECONDED BY: MR. MCGOLDRICK

ROLL CALL:

YES: DR. KLOBY, MR. FLIGOR, MR. CACCAMO, DR. CETRON, MR. NEFF, MR. PEPE, MR. COLANGELO, MS. DREW, MR. MCGOLDRICK

NO: NONE

ABSTAIN: NONE

ABSENT: MR. HAWLEY, MRS. MURRAY, MR. DOUGHERTY, MR. ILLIANO
Chairperson, Planning Board
Borough of Atlantic Highlands

I certify that the above is a true and exact copy of the Resolution passed by the Planning Board of the Borough of Atlantic Highlands at its meeting held on October 10, 2019.

Secretary, Planning Board
Borough of Atlantic Highlands