IN THE MATTER OF
APPLICATION NO. PB20-09
OF ALICIA & MARK BUBLITZ
BLOCK 34 LOT 7

RESOLUTION GRANTING
USE VARIANCE APPROVAL

WHEREAS, ALICIA AND MARK BUBLITZ, hereinafter the
"Applicant", has proposed the development of property located at
22 East Avenue, in the Borough of Atlantic Highlands, County of
Monmouth, and State of New Jersey which property is further
known and designated as Block 34, Lot 7 on the Tax Map of the
Borough of Atlantic Highlands; and

WHEREAS, the Applicant has applied to the Planning Board of
the Borough of Atlantic Highlands for variance approval to
construct a 723 sq. ft. addition to an existing single family
home which has the following existing non-conforming elements:

1. Lot area of 7,000 sq. ft. where 7,500 sq. ft. is
required (Section 150-29)(A)(2)(Exhibit 5-2)).

2. Lot frontage and lot width of 70 ft. where 75 ft. is
required (Section 150-29)(A)(2)(Exhibit 5-2)).

3. Front yard setback from East Avenue of 11.3 ft. and
Asbury Avenue 11.85 ft. where 20 ft. is required (Section 150-
29)(A)(2)(Exhibit 5-2)).

4. Accessory side yard setback of 3.44 ft. where 5 ft. is
required (Section 150-29)(A)(2)(Exhibit 5-2)).

5. Accessory rear yard setback of 4.11 ft. where 5 ft. is
required (Section 150-29)(A)(2)(Exhibit 5-2)).
The aforesaid non-conforming elements will continue unchanged. In addition, the Applicant require a variance to permit building coverage 28.6% where 25% is required (Section 150-29)(A)(2)(Exhibit 5-2)).

The forgoing are contrary to the provisions of the Development Regulations of the Borough of Atlantic Highlands; and

WHEREAS, the subject property is located in the R-1 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 July 16, 2020 due notice of said meeting having been given in accordance with New Jersey Statutes, the Open Public Meetings Act and the Municipal Land Use Law and a quorum of the Planning Board being present the application was heard; and

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

1. The Planning Board has received and reviewed the following documents, Exhibits and reports:
1.1 Zoning denial of Zoning Officer Michelle Clark dated January 9, 2020, marked as Exhibit A-1 in evidence.

1.2 Development Permit Application dated December 26, 2019, marked as Exhibit A-2 in evidence.

1.3 Application for variance of Mark & Alicia Bublitz dated February 25, 2020, marked as Exhibit A-3 in evidence.

1.4 Survey prepared by Thomas Craig Finnigan dated March 12, 2020, marked as Exhibit A-4 in evidence.

1.5 Elevation and Floor Plans prepared by Paul A. Damiano, Architect, dated December 19, 2019, marked as A-5 in evidence.

1.6 Review #1 of CME Associates dated April 29, 2020, marked as Exhibit A-6 in evidence.

1.7 Series of 4 photographs showing front, side and rear of existing residence and front of existing garage, marked as Exhibit A-7 in evidence.

1.8 Aerial photograph of subject property marked as Exhibit A-8 in evidence.

2. The premises in question are located at 22 East Avenue, in the Borough of Atlantic Highlands, County of Monmouth and State of New Jersey, which property is further known and designated as Block 34, Lot 7 on the Tax Map of the Borough of Atlantic Highlands.
3. The subject property is located in the R-1 Residential Zone District and single family homes with associated accessory structures are a permitted use in the Zone.

4. The property in question has approximate dimensions of 70.00 ft. x 100.00 ft. x 70.00 ft. x 100.00 ft. and is rectangular in shape with an approximate area of 7,000 sq. ft. The property is an undersized lot and has existing non-conforming elements as set forth previously in this resolution. The adjacent properties are developed with single family homes such that there is no land available from adjacent properties to mitigate the existing non-conforming elements with respect to lot area, lot frontage, lot width, accessory side and rear setbacks.

5. The subject property is presently developed with a one-story frame dwelling with a masonry block patio, walkways, a detached frame garage and driveway. The existing building is oriented to the northwest portion of the property, leaving the easterly portion of the property mostly vacant.

6. The Applicant provided testimony that the existing home is very modest in size having only 750 sq. ft. of living space. The Applicant would like to place an addition on the property in order to provide for greater living space for their growing family. Therefore, the Applicant is proposing to construct a 723 sq. ft. addition that will provide an additional bedroom and additional bathroom facilities as well as increased kitchen, dining room and living room area. In addition, the roof line
will be increased in height somewhat so as to provide attic storage space.

7. The Applicants presented their own testimony and that of Paul Damiano, a Licensed Architect in the State of New Jersey who opined that the need for the variance relief for building coverage is due to the undersized nature of the lot. He opined that the only new variance is for building coverage of 28.6% where 25% is permitted. Mr. Damiano noted that the home itself falls within the 25% building coverage requirement. It is the detached garage which places the building coverage over that which is permitted. Mr. Damiano testified that the style of the home is a "craftsman style" and that the addition has been designed in order to maintain the craftsman look. He further testified as to the screening around the residence, particularly to the front and side yards which was apparent from the photographic Exhibits provided and marked as Exhibits A-7 and A-8 in evidence. Mr. Damiano also drew the Boards attention to the fact that the property is not being over built as, with the proposed improvements, the total impervious coverage of the lot will still be well under the 50% permitted at 38.91%. Thus, he opined that the excess building coverage is di minimis and that the proposed addition will not constitute overdevelopment of this lot.

8. Mr. Damiano also noted that the addition will not violate any setback requirements and he agreed that the downspouts and runoff from the home would be directed to adjacent Asbury Avenue so as to retain the existing runoff
conditions and will not result in redirecting storm water runoff onto adjacent properties.

9. The Planning Board finds that the Applicant has satisfied the positive criteria for the grant of the requested variance relief. The Planning Board finds that the building coverage variance is driven by the undersized nature of the lot. The Planning Board further notes that the existing residence is very modest in size, being only 750 sq. ft. and that the proposed addition is being done in a manner that retains the "craftsman style" of the existing home and will continue to harmonize with the surrounding properties in the neighborhood. The Planning Board finds that an extraordinary and exceptional situation uniquely effects 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 restrict the construction of a reasonably sized addition to this very modest home, resulting in a hardship upon the property owners.

10. The Planning Board further finds that the grant of the requested variance relief will not result in any substantial detriment to the public good. As noted previously herein, the proposed addition will meet all of the setback requirements of the Zone and thus will not be too close to any of the adjacent properties. Moreover, the style of the addition will continue the "craftsman style" of the existing home and will be consistent and harmonize with other homes in the neighborhood. Finally, any impacts of the addition are minimized due to the
existing substantial vegetation and foliage along the property lines that will screen the addition from the adjacent lots.

11. The Planning Board further finds that the grant of the requested variance relief will not result in any substantial impairment of the Zone Planners Zoning Ordinance. The Planning Board finds that there is a single variance involved in connection with this Application for exceeding allowable building coverage. The Planning Board finds that the building coverage limitation required by the Ordinance is intended to ensure that buildings and structures are not too expansive in size so as to impede light, air and open space and will not have the appearance of being excessively large or over building of the site. The Planning Board finds that the proposal of the Applicant is di minimis in its deviation and that, due the location of the proposed addition coupled with the screening of the property and the excess total impervious coverage of the lot, the purposes for which the Zoning Ordinance was designed are not offended by the grant of variance relief in this case. The Planning Board finds that the proposed addition will harmonize with the neighborhood, be consistent with the neighborhood scheme and thus will not have a substantial negative impact upon the Zone Plan or the Zoning Ordinance.

12. As a result of all of the foregoing the Planning Board finds that the Applicant has satisfied the positive and negative criteria for the grant of the requested variance relief and that the variance can and should be granted at this time.

13. The Planning Board further finds that all property owners within 200 ft. of the premises in question have been
given proper notice of the hearing of this application and were provided with an opportunity to present testimony in favor of, or in opposition to, the appeal.

NOW THEREFORE, BE IT RESOLVED by the Planning Board of the Borough of Atlantic Highlands on this 6th day of August, 2020 that the Application of Mark and Alicia Bublitz 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. (Not Applicable)

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. (Not Applicable)

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. (Not Applicable)

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. (Not Applicable)

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. (Not Applicable)
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 relief granted in connection with this Application is to permit the construction of a 723 sq. ft. addition to the existing single family home in accordance with the plans submitted with the application, with a building coverage of 28.6% where 25% is permitted.

2) The following existing non-conforming elements will remain.

1. Lot area of 7,000 sq. ft. where 7,500 sq. ft. are required (Section 150-29)(A)(2)(Exhibit 5-2)).
2. Lot frontage and lot width of 70 ft. where 75 ft. are required (Section 150-29)(A)(2)(Exhibit 5-2)).

3. Front yard setback from East Avenue of 11.3 ft. and Asbury Avenue 11.85 ft. where 20 ft. is required (Section 150-29)(A)(2)(Exhibit 5-2)).

4. Accessory side yard setback of 3.44 ft. where 5 ft. are required (Section 150-29)(A)(2)(Exhibit 5-2)).

5. Accessory rear yard setback of 4.11 ft. where 5 ft. are required (Section 150-29)(A)(2)(Exhibit 5-2)).

3) The Applicant shall direct downspouts runoff towards Asbury Avenue.

BE IT FURTHER RESOLVED that nothing herein shall excuse compliance by the Applicant with any and all other requirements of this Municipality or any other governmental entity.

BE IT FURTHER RESOLVED that a written copy of this Resolution, certified by the Secretary of the Planning Board to be a true copy, be forwarded to the Applicant, the Code Enforcement Official of the Borough of Atlantic Highlands, and the Construction Code Official of the Borough of Atlantic Highlands. A written copy of the certified Resolution shall also be filed in the office of the Administrative Officer of the municipality, which copy shall be made available to any interested party and available for public inspection during normal business hours.
BE IT FURTHER RESOLVED that should the Applicant not exercise this variance within the required time period pursuant to Chapter 150, Article III, Section 150-9.J. these variances will expire.

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

OFFERED BY: Mr. Dougherty
SECONDED BY: Mr. McGoldrick

YES: MR. DOUGHERTY, MR. BOMS, MR. HAWLEY, MR. CACCAMO, MR. MCGOLDRICK, MR. NEFF, MR. PEPE, MRS. MURRAY, MR. COLANGELO

NO: None
ABSTAIN: None
ABSENT: None

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 August 6, 2020.

Secretary, Planning Board Borough of Atlantic Highlands