IN THE MATTER OF
APPLICATION NO. PB20-11
OF MORDECHAI FINKELSTEIN
BLOCK 128 LOT 26

RESOLUTION GRANTING
SUBDIVISION APPROVAL

WHEREAS, MORDECHAI FINKELSTEIN, hereinafter the "Applicant", has proposed the development of property located at 124 East Washington Avenue, in the Borough of Atlantic Highlands, County of Monmouth, and State of New Jersey which property is further known and designated as Block 128, Lot 26 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 subdivision approval to subdivide an existing 23,180 sq. ft. parcel containing an existing single-family residential home into two (2) single-family residential home lots. Proposed new lot 26.01 will retain the existing single-family residence and will conform in all respects to the bulk standard requirements in the R-1 Zone District. Proposed lot 26.02 will be developed with a new single-family residential home and that lot will also conform in all respects to the bulk standards of the R-1 Zone. The proposed subdivision does not require any variances or design standard waivers; and

WHEREAS, the subject property is located in the R-1 Residential Zone District and single-family residential homes with associated accessory structures are a permitted use in the Zone; and

WHEREAS, The Applicant appeared before the Planning Board of the Borough of Atlantic Highlands on August 27, 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 review of Zoning Officer Michelle Clark, dated April 27, 2020, marked as Exhibit A-1 in evidence.

1.2 Application for subdivision approval of Mordechai Finkelstein, dated April 27, 2020, marked as Exhibit A-2 in evidence.


1.4 Review No. 1 of CME Associates dated June 5, 2020, marked as Exhibit A-4 in evidence.

2. The premises in question are located at 124 East Washington Avenue, in the Borough of Atlantic Highlands, County of Monmouth and State of New Jersey, which property is further known and designated as Block 28, Lot 26 on the Tax Map of the Borough of Atlantic Highlands.

3. The subject property is located in the R-1 Residential Zone District and single-family residential homes with associated accessory structures are a permitted use in the Zone.

4. The premises in question has approximate dimensions of 130.00 ft. x 144.18 ft. x 125.00 ft. x 18.00 ft. x 25.00 ft. x 83.50 ft. x 156.52 ft. x 217.97 ft. and is substantially irregular in shape with a lot area of 23,180 sq. ft. in a zone which permits a development of single-family homes on lots with a minimum lot area of 7,500 sq. ft. The Subject property is presently developed with an existing 1-story residential home located on the northwesterly portion of the property. That residential home also has a metal shed which is to be removed. The existing residence will be retained and will be located entirely on new lot 26.01. That residence is currently serviced by a driveway that enters from the southwesterly portion of the property that will become new lot 26.02. A portion of that driveway will service the proposed residence for new lot 26.02 and the remainder of that driveway will be removed. A new
driveway will be constructed in the northwesterly portion of new lot 26.01 to service the existing residence.

5. The Applicant presented the testimony of Richard Stockton a licensed Surveyor and Professional Planner in the State of New Jersey who has previously been qualified as an expert in those areas by numerous Zoning and Planning Boards within the State of New Jersey and particularly by this Planning Board. His qualifications were accepted and he testified as to the existing conditions of the property, including that the lot area is substantially oversized for the Zone being three times the required minimum lot area for lots in this Zone. He testified that the proposed lots will be approximately 1.5 times the required lot size such that after subdivision they will continue to be oversized lots in the Zone. He further testified as to the existing topographic conditions of the property and opined that post-development Stormwater Management conditions will be the same as pre-development. He noted that both the metal shed on proposed new lot 26.01 and the wood shed on proposed new lot 26.02 will be removed. He also addressed concerns of neighbors as to whether there will be any disturbance to the existing “timber wall” on proposed lot 26.02. He advised that the wall will not be disturbed. He further testified that the Applicant is not proposing to add additional landscaping to the rear of the proposed lots or to disturb the existing vegetation.

6. Mr. Stockton addressed the questions/comments set forth in the report of the Planning Board’s Engineer CME Associates marked as Exhibit A-4 in evidence and particularly those items raised in paragraph 7 as follows:

a. No discussion was required respecting reasons to support the grant of variances or design waivers since none are requested or required.

b. Mr. Stockton testified that the stormwater currently drains from north to south terminating at East Washington Avenue and that the same conditions will exist post-development. Mr. Stockton noted, as did the Planning Board Engineer, that once a final design for the proposed improvements on lot 26.02 is arrived at a specific grading plan will be required to address stormwater runoff issues to ensure that the runoff does not go to adjacent properties and continues in the existing pattern.
c. Mr. Stockton testified that the existing conditions of the property have upline flow patterns where stormwater flows off the steep slope across the property in a southwest direction to the proposed building location on lot 26.02. Mr. Stockton confirmed that when a final building plan has been designed a grading plan will be developed in order to continue as stormwater flows to be directed as in pre-development conditions.

d. Mr. Stockton confirmed that the Applicant will not exceed the maximum allowable lot disturbance of 4,612 sq. ft. and agreed to comply with the request of the Board Engineer to survey and stakeout the approved limit of disturbance prior to construction to confirm compliance.

e. Mr. Stockton testified that some existing trees along the lot frontage will necessarily be removed to accommodate the subdivision and agreed to provide 3 new street trees as replacements.

f. Mr. Stockton testified that the proposed number of bedrooms will not exceed 5 and that there will be sufficient outdoor parking on proposed lot 26.01 to accommodate the 2 vehicle spaces required for that 4 bedroom home and that lot 26.02 will have a 2 car garage plus 2 outside parking spaces which will accommodate the three vehicle spaces required for a 5 bedroom home.

g. Mr. Stockton’s comments as to subparagraph f above also addressed the parking comments in paragraph g.

h. The applicant did not have photographs to provide of the existing conditions on the property.

i. The Applicant provided testimony that, although a final house plan for proposed lot 26.02 has not been decided upon, the final plan will be consistent with architecture in the neighborhood along East Washington Avenue.

j. The Applicant clarified that it is their intention to file the subdivision by deed rather than by map.
k. The Applicant agreed with the recommendation of the Board’s Planner that all trees over 6 inch diameter be shown on the plan and that any trees to be removed be designated with a “strike through X”.

l. Mr. Stockton provided testimony regarding the existing and proposed utility connections and the Applicant agreed that in the event the current overhead wires crossing proposed lot 26.02 require relocation and easement to JCP&L that such easement will be provided.

m. Mr. Stockton confirmed that that portion of the existing driveway that currently services the home on proposed lot 26.01 that is not needed for the new dwelling on proposed lot 26.02 will be removed.

n. The Applicant agreed to revised notations on the plan to conform with the comments of the Planning Board Engineer.

7. The planning Board finds that the Applicant has submitted a plat and such other information as is reasonably necessary to make an informed decision as to whether the requirements necessary for approval have been met. The Planning Board further finds that the detailed drawing specifications and estimates of the application conform to the standards established by Ordinance for final approval. The Planning Board notes that the application requires no variances and no design standard waivers and conforms in all respects to the requirements of the development regulations of the Borough of Atlantic Highlands.

8. The Planning Board further finds that all property owners within 200 ft. of the premises in question were given proper notice of the Hearing of this Application and were provided with an opportunity to present testimony in support of or in opposition to the appeal.

NOW THEREFORE, BE IT RESOLVED by the Planning Board of the Borough of Atlantic Highlands on this 3rd day of September, 2020 that the Application of MORDECHAI FINKELSTEIN, 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 relief granted in connection with this application is for 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 as may be amended in accordance with the requirements of this approval.

2) The Applicant will comply with the recommendations of the Planning Board’s Engineer as set forth in its review No. 1 marked as Exhibit A-4 in evidence and particularly making such adjustments as are required so as not to require variance or waiver relief for maximum lot disturbance and to provide a stakeout of the approved limit of disturbance prior to construction.

3) The Applicant shall provide 3 new street trees.

4) The final utility locations and any necessary easements will be depicted upon the final plans.
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. McGoldrick
SECONDED BY: Mr. Neff

ROLL CALL:
YES: Mr. Dougherty, Mr. Boms, Mr. McGoldrick, Mr. Neff, Mr. Colangelo, Mr. Sonnek-Schmelz, Mr. Krupinski, Mr. Curry

NO: Mr. Hawley, Mrs. Murray, Mr. Burke

ABSTAIN: None

ABSENT: Mr. Caccamo, Mr. Pepe

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 September 3, 2020.

Borough of Atlantic Highlands
Secretary, Planning Board