IN THE MATTER OF
APPLICATION NO. PB19-13
OF RONALD & MICHELE BISACCIA
BLOCK 26 LOT 2

RESOLUTION GRANTING
VARIANCE APPROVAL

WHEREAS, RONALD & MICHELE BISACCIA, hereinafter the "Applicant", has proposed the development of property located at 16 Keystone Drive, in the Borough of Atlantic Highlands, County of Monmouth, and State of New Jersey which property is further known and designated as Block 26, Lot 2 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 new raised deck addition and an exterior spiral staircase to an existing single family residential home, including the transplanting of an exiting 2.5" multi-stem Japanese tree from the rear yard area to the front yard which requires the following relief:

A. Retain pre-existing rear yard setback of 24.6 ft. where 30 ft. are required (Section 150-29(A)(2)) (Exhibit 5-2))

B. Retain pre-existing side yard setback of 14.4 ft. where 15ft. are required (Section 150-29(A)(2)) (Exhibit 5-2))

C. Retain existing building coverage of 16.1% where 15% is permitted (Section 150-29(A)(2)) (Exhibit 5-2))
D. Maximum lot coverage in steep slope area of 5,340 sq. ft. where 5,194 sq. ft. are permitted (Section 150-78(E)(4)) (Exhibit 5-2))

E. Maximum steep slope area of 5,340 sq. ft. where 4,515 sq. ft. are permitted (Section 150-78(E)(4)) (Exhibit 5-2))

Contrary to the provisions of Chapter 150 Article V Section 150-29 and Article VII Section 150-78 of the Development Regulations of the Borough of Atlantic Highlands; and

WHEREAS, the subject property is located in the R-2 Residential Zone District and single-family 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 December 12, 2019 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 Application of Ronald & Michele Bisaccia dated May 29, 2019, marked as Exhibit A-1 in evidence.

1.2 Narrative of Intent marked as Exhibit A-2 in evidence.

1.3 Steep Slope review plan prepared by Richard E. Stockton & Associates dated November 5, 2015, revised November 17, 2015 marked as Exhibit A-3 in evidence.

1.4 Variance Plan prepared by Land Identity, LLC dated May 21, 2019, marked as Exhibit A-4 in evidence.

1.5 The Zoning determination of Zoning Officer Michelle Clark dated September 24, 2019, marked as Exhibit A-5 in evidence.

1.6 Review #1 of CME Associates dated November 6, 2019, marked as Exhibit A-6 in evidence.

1.7 Photograph of existing property prepared by Land Identity, LLC, marked as Exhibit A-7 in evidence.

1.8 Photo of existing property prepared by Land Identity, LLC, marked as Exhibit A-8 in evidence.

1.9 Photo of existing property prepared by Land Identity, LLC, marked as Exhibit A-9 in evidence.
1.10 Photo of existing property prepared by Land Identity, LLC, marked as Exhibit A-10 in evidence.

2. The premises in question are located at 16 Keystone Drive, in the Borough of Atlantic Highlands, County of Monmouth and State of New Jersey, which property is further known and designated as Block 26, Lot 2 on the Tax Map of the Borough of Atlantic Highlands.

3. The subject property is located in the R-2 Residential Zone District and single-family residential homes with associated accessory structures are a permitted use in the Zone.

4. The premises in question have approximate dimensions of 50.00 ft. x 74.72 ft. x 69.05 ft. x 139.10 ft. x 113.49 ft. x 126.50 ft. and is irregular in shape. The subject property is also impacted by substantial steep slopes along its northern, eastern and southern borders which significantly restricts the area in which development can occur on the subject property. The subject property is presently developed with an existing single-family residential home with attached garage, with wood decks, a stone driveway and slate walkway. The Applicant proposes to expand an existing second floor wood deck to create a 267 sq. ft. +/- composite deck (Azek Weathered Teak) extension with an exterior spiral staircase.

5. The Applicant was represented by Kevin Kennedy, Esq. who presented the testimony of Ronald Bisaccia, the property owner, and Greg Spadaro, a licensed landscape Architect whose credentials were accepted by the Planning Board. They provided
testimony that the Bisaccia's have been the owners of this property for approximately four (4) years, that the property is in a steep slope area and that the existing house is approximately 3200 sq. ft. in area with four (4) bedrooms and five (5) bathrooms. The existing decks on the property are very small and can only accommodate chairs. They are not of sufficient size to accommodate outdoor recreation such as having deck furnishings and a table and chairs of sufficient size to have meals and entertain guests. The proposed deck extension will provide that amenity and permit the full use of this outdoor space.

6. The existing conditions showing the small existing second floor deck was demonstrated by Exhibit A-7. Exhibit A-9 demonstrated how the minor expansion of the upper deck will provide a significant improvement in the ability to utilize this portion of the property for the recreational purposes desired by the Applicant.

7. The Applicant's witnesses further noted that, due to the steep slopes, it is impractical to create additional recreational area at ground level. The Applicant's witnesses also noted that the existing staircase leading from the second level to ground level does not have a proper landing and that the proposed spiral staircase will provide improved egress from the home in the event of fire or other emergent circumstances.

8. The Applicant's witnesses noted that the proposed deck will not be visible from the street as it is blocked by the existing residence. In addition, the areas to the rear of the property are well wooded, providing adequate buffer from other
properties in the neighborhood. The Applicant also provided testimony that roof water is currently managed and that the proposed improvements will not alter this condition.

9. The Applicant also provided testimony that the construction of the deck will be carefully performed by hand and that there will be no trucks or heavy equipment brought on to the property that could compromise the stability of the steep slope area. The Applicant also noted that there is an existing concrete pad beneath a substantial portion of the proposed deck extension. Therefore there will be only minimal new impervious surface and the proposed deck will be constructed of composite material that will have one-quarter inch (1/4in.) gaps between the slats so that rain water will drain naturally to the surface beneath the deck.

10. The Applicant's landscape Architect also opined that the granted variance relief in this case would advance goals of the Borough Master Plan including balancing uses along the waterfront and taking advantage of views as the subject property has significant views of the Sandy Hook Bay and New York City skyline. He further opined that the Master Plan promotes preservation of the natural landscape and this deck will promote that purpose along with protecting natural resources as it will require only five posts to support the deck extension. This is preferable to disturbing steep slopes to create a recreational area at ground level.

11. 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 due to the
extensive steep slopes on the subject property there is a hardship associated with providing adequate area for anticipated amenities in the R-2 Zone, such as proposed deck, without the grant of variance relief. The Planning Board further finds that the grant of the requested variance relief will promote the purposes of the Municipal Master Plan as well as the Municipal Land Use Law by providing adequate light, air and open space in which the Applicant can enjoy the exceptional views of the waterfront and New York City skyline. The Planning Board further finds that the grant of variance relief will promote a desirable visual environment through creative developmental techniques.

12. The Planning Board further finds that the Applicant has satisfied the negative criteria for the grant of the requested variance relief. The Planning Board agrees with the Applicant that the proposed deck extension and spiral staircase will not be visible from the streetscape and will be well screened from other properties. Consequently, there will be no substantial detriment to the public good flowing from the grant of the requested variance relief as there will be minimal, if any, impacts upon the surrounding properties. The Planning Board notes that there will be no storm water issues resulting from this improvement and that the Construction techniques proposed to be implemented by the Applicant will be performed in a manner so as to maintain the structural stability of the steep slope areas. The Planning Board notes that a condition of this approval will require the Applicant to provide sealed engineering structural stability plans of the proposed deck utilizing appropriate construction techniques. The plans shall
be provided to the Planning Board Engineer for review and approval prior to the issuance of any Construction permits.

13. The Planning Board further finds that the grant of the requested variance relief will not result in any substantial impairment of the Zone Plan or Zoning Ordinance. The Planning Board agrees with the Applicant's landscape Architect that these improvements are anticipated improvements for properties in the R-2 Zone, are minimal in scope and will provide a significant functional improvement to the residence. It will promote the purposes of the Borough Master Plan as set forth previously herein. Consequently, any adverse impacts to the Zone Plan from this minor improvement will be insubstantial.

14. As a result of all 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 variances can and should be granted at this time.

15. 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 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 2nd day of January, 2020 that the Application of RONALD & MICHELE BISACCIA 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 approvals granted in connection with this application are as follows:

A. Retain pre-existing non-conforming rear yard setback
   Side yard setback of 24.6 ft. where 30 ft. are required
   (Section 150-29(A)(2)) (Exhibit 5-2)

B. Retain minimum side yard setback of 14.4 ft. where 15
   ft. are required (Section 150-29(A)(2)) (Exhibit 5-2)

C. Retain existing maximum building coverage of 16.1%
   where 15% is permitted (Section 150-29(A)(2)) (Exhibit 5-2)

D. Maximum lot coverage and steep slope area of 5,340 sq.
   ft. where 5,194 sq. ft. are permitted (Section 150-
   78(E)(4)) (Exhibit 5-2)

E. Maximum steep slope area of 5,340 sq. ft. where
   4,515 sq. ft. are permitted (Section 150-78(E)(4))
   (Exhibit 5-2)

2) Prior to the issuance of building permits the
   Applicant shall submit signed, sealed structural engineering
   plans for review and approval by the Board Engineer to ensure
   that the construction will not compromise the steep slope areas
   impacted and will provide adequate, structural stability for the
   proposed deck extension and spiral staircase improvements.
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: DR. CETRON

SECONDED BY: MRS. MURRAY

ROLL CALL:

YES: DR. KLOBY, MR. MURPHY, MR. HAWLEY, MR. CACCAMO, DR. CETRON, MR. NEFF, MRS. MURRAY, MR. COLANGELO, MR. MCGOLDRICK

NO: NONE

ABSTAIN: NONE

ABSENT: MR. PEPE, MR. DOUGHERTY, MS. DREW

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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 January 2, 2020.

Secretary, Planning Board
Borough of Atlantic Highlands