IN THE MATTER OF
APPLICATION NO. PB20-01
OF ELISE TENNEY & VINCENT
TAHAMONT
BLOCK 132, LOT 10

RESOLUTION GRANTING
VARIANCE APPROVAL

WHEREAS, ELISE TENNEY & VINCENT TAHAMONT, hereinafter the "Applicant", has proposed the development of property located at 108 Bay Avenue, in the Borough of Atlantic Highlands, County of Monmouth and State of New Jersey, which property is further known and designated as block 132 lot 10 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 to construct a 5.5 ft. x 8 ft. mud room addition to the westerly side of an existing single family residential home resulting in a side yard setback of 6.6 ft. where 10 ft. are required contrary to the provisions of Chapter 150, Article V, Section 150-29 and Exhibit 5-2 of the Development Regulations of the Borough of Atlantic Highlands; and

WHEREAS, 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; and

WHEREAS, the Applicant appeared before the Planning Board of the Borough of Atlantic Highlands on March 5, 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 January 9, 2020, marked as Exhibit A-1 in evidence.

1.2 Application of Elise Tenney and Vincent Tahamont dated January 7, 2020, marked as Exhibit A-2 in evidence.

1.3 Survey prepared by Richard E. Stockton & Associates dated May 4, 2019, marked as Exhibit A-3 in evidence.


1.5 Construction drawing with elevation and floor plan dated January 2, 2020, marked as Exhibit A-5 in evidence.

1.6 Review #1 of CME Associates dated January 21, 2020, marked as Exhibit A-6 in evidence.

1.7 Board Exhibit with photograph of side of existing residence, copy of Notice of Hearing and colorized elevation rendering, marked as Exhibit A-7 in evidence.

2. The premises in question are located at 108 Bay Avenue, in the Borough of Atlantic Highlands, County of Monmouth and State of New Jersey, which property is
further known and designated as Block 132, Lot 10 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 have approximate dimensions of 75.00 ft. x 100.00 ft. x 75.00 ft. x 100.00 ft. and is rectangular in shape with an approximate area of 7,500 sq. ft. The property is presently developed with a 1.5 story residential dwelling with a detached framed shed, koi pond, asphalt driveway and brick walkways. The property has the following existing non-conforming elements:

a. Front yard setback of 19.4 ft. where 20 ft. are required.

b. First floor area of 876 sq. ft. where 900 sq. ft. are required.

c. The Planning Board notes that plans show a second wood shed with non-conforming side and rear yard setbacks. During the course of the application the Applicant testified that shed has been removed so they are no longer existing non-conforming elements.

5. The existing dwelling has a westerly side yard setback of 12.1 ft. where 10 ft. are required and is conforming. The Applicant requests permission to construct a 5.5 ft. x 8 ft. mud room addition to the westerly side of the building which will reduce the side yard setback to 6.6 ft. requiring variance approval. The Planning Board notes that there is an existing landing that extends from the westerly side of the residence. The proposed new mud room will be approximately 1 ft. closer to the side setback than the existing landing. The Applicant testified that the new mud room will be a desirable amenity to the home to provide space for entry to the home especially during times of
inclement weather. The Planning Board notes that the proposed location of the mud room is the only practical location given the existing conditions of the property including that it is adjacent to the driveway area and enters at the kitchen. There are no alternative entry options to the rear of the house as there are no doors along the rear or opposite side of the residence for access and the proposed entryway is convenient to entry into the kitchen area.

6. The Applicant testified that the driveway will continue to be usable and the improvement will not eliminate any existing parking spaces. The Applicant further provided testimony that should the construction codes require that the mud room have a landing in addition to the steps leading to it that they will comply with that requirement and request that the Board include the approval of such amenity if required.

7. The Planning Board finds that the Applicant has satisfied the positive criteria for the grant of the requested variance relief. The Planning Board notes that the location of the existing residence and the location of the entryways to that residence create a hardship as this mud room amenity cannot be constructed elsewhere and have proper access to the home. Therefore, the Planning Board finds that an extraordinary and exceptional situation uniquely affecting 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.

8. The Planning Board further finds that the Applicant has satisfied the negative criteria for the grant of the requested variance relief. The Planning Board finds that the grant of this variance will not result in any substantial detriment to the public good. The Planning Board finds that the small addition, which is only 44 sq. ft. in area, will have minimal impact upon the neighboring property to the west. The proposed addition will have no impact upon the properties to the north as it is well distant from that property.
line and its visibility is blocked by the existing frame shed. The proposed mud room will also not be visible from the adjacent lot to the east as its view from will be blocked by the existing residence. Finally, the proposed mud room will not have any substantial impact upon the streetscape of Bay Avenue as it will be adequately set back so as not to have any adverse visual impact and for the most part will be blocked from visibility of the avenue by the existing residence and the residence to the west. As a result of the foregoing, the Planning Board finds that the impacts upon the surrounding neighborhood are di minimis and insubstantial.

9. 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 the Zoning Ordinance. The Planning Board notes that the required side yard setbacks are designed to insure that there is adequate light, air and open space between properties and that the structures are not placed so close to a property line as to have an overbearing appearance or impact upon adjacent properties. In this case, the proposed mud room will have no impact upon properties to the north, east and south and will have only minimal impact upon the adjacent property to the west as this small addition will not have the impacts of impeding light, air and open space nor will it appear to be oversized due to its proximity to the adjacent property. The Planning Board further notes that this small 44 sq. ft. addition will result in the property having a first floor area of 920 sq. ft. which will eliminate an existing nonconforming addition and bring the property more closely into conformity with the Zoning Ordinance requirements. Consequently, this will result in a benefit rather than a detriment to the Zone Plan.

10. 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.

11. 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 2nd day of April 2020, that the Application of **ELISE TENNEY AND VINCENT TAHAMONT** 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.

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 –

The relief granted in connection with this application is to permit the construction of mud room as shown on the survey marked as Exhibit A-4 in evidence resulting in a side yard setback of 6.6 ft. where 10 ft. are required.

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. DOUGHERTY

SECONDED BY: MR. PEPE

ROLL CALL:
YES: MR. DOUGHERTY, MR. BOMS, MR. CACCAMO, MR. NEFF, MR. PEPE, MR. COLANGELO, DR. KLOBY, MR. KRUPINSKI

NO: NONE

ABSTAIN: NONE

ABSENT: MR. HAWLEY, MR. MCGOLDRICK, MR. SONNEK-SCHMELZ

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 April 2, 2020.

Secretary, Planning Board Borough of Atlantic Highlands