

**IN THE MATTER OF  
APPLICATION NO. PB 24-02  
OF JOHN CORNELIUSEN & ALLYSON STOLL  
BLOCK 129 LOT 1**



**RESOLUTION GRANTING  
VARIANCE APPROVAL**

**WHEREAS, JOHN CORNELIUSEN & ALLYSON STOLL**, hereinafter the "Applicant", has proposed the development of property located at 64 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 129, Lot 1 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 one story 280 square foot addition to an existing two-story residential dwelling requiring Variance relief to permit a side yard setback of 6.42 feet where 20 feet is required and a rear yard setback of 14.33 feet where 20 feet is required. The foregoing is contrary to the provisions of Chapter 150, Article V, Section 150-29 (A)(2)(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 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 April 4, 2024, 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 Borough Zoning Officer Michelle Clark, dated May 15, 2023, marked as Exhibit A-1 in evidence.

1.2 Variance Application of Christian John Corneliusen & Allyson Stoll, dated December 28, 2023, marked as Exhibit A-2 in evidence.

1.3 Variance Plan prepared by Anthony Condouris, dated April 11, 2023, marked as Exhibit A-3 in evidence.

1.4 Survey prepared by Thomas Craig Finnegan, dated March 8, 2023, marked as Exhibit A-4 in evidence.

1.5 Review #1 of CME Associates, dated February 6, 2024, marked as Exhibit A-5 in evidence.

2. The premises in question are located at 64 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 129, Lot 1 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 subject property has approximate dimensions of 123.00 ft. x 100.00 ft. x 17.51 ft. x 25.00 ft. x 97.00 ft. x 125.29 ft. and is substantially rectangular in shape with the exception of the northwesterly corner of the property where the westerly sideline moves to the east,

reducing the side yard in the northwesterly rear corner of the property. The property has an approximate area of 14,407 square feet (0.33 acres). The property is presently developed with an existing two-story residence with one-story sections and an attached garage, pool, patio, paved driveway and associated walkways. The existing residence is located in the center of the property and the front is oriented toward Bay Avenue.

5. The Applicant presented the testimony of John Corneliusen who testified that the family needs some additional living space and that they propose an addition to expand their existing family room. The Planning Board notes that there are several factors that limit where a family room could be placed as an addition to the existing residence. It cannot be placed to the easterly side of the residence as there is an existing patio, swimming pool and paved driveway leading to the garage of the home. To the south is the frontage along Bay Avenue and a covered front porch to the entrance of the property which does not lend itself to the addition. Placement of the addition on the westerly side of the existing residence will fit with the interior layout of the home and require Variance relief for side yard setback. The only logical area of placement of the proposed new addition is adjacent to the existing family room in the northwesterly portion of the property where the building has an "L" shaped area within which the addition can be placed following existing building lines. However, that is partially in the same area where the westerly property line moves easterly 17.51 feet which results in the need for side yard setback relief for a portion of the proposed addition. The addition also results in a rear yard setback of 16.4 feet where 20 feet are required. However, the existing residence is closer to the rear yard property line at 14.4 feet.

6. The testimony and exhibits of the Applicant demonstrated that the proposed addition is in the only practical location for a family room expansion. The existing conditions of the property, including the irregular shape of the property in the northwesterly corner and the location of the existing residence and interior configuration result in a hardship in enlarging the family room without variance relief.

7. The Applicant further provided testimony that the proposed addition will be in an area where it will be blocked from view from Bay Avenue by the existing home. It will be blocked from view by the adjacent properties to the west by existing shed structures on those properties the height of which will not be exceeded by the proposed addition.. It will be blocked from view to the north by an existing tree line and will be blocked from view to the east by the existing residential home.

8. The Applicant testified that there are currently five bedrooms in the home and that there is no proposal to increase that number. He further testified that there will be sufficient parking spaces on site to meet the Residential Site Improvement Standards (RSIS).

9. In response to questioning by the Board Engineer, the Applicant testified that stormwater will be controlled by a gutter system and that the new addition will connect with the existing gutters to direct the flow of water runoff to Avenue A and Bay Avenue and not to adjoining properties. The Applicant agreed to provide a gutter plan for approval by the Planning Board Engineer as a condition of approval, which approval shall be obtained prior to the issuance of building permits.

10. The Planning Board finds that the Applicant has satisfied the positive criteria for the grant of the requested Variance relief. The Planning Board agrees with the Applicant that the proposed addition is in the only practical location to be placed on the property. As noted previously, it is the only location where the existing room can be expanded due to the configuration of the home. It is also a practical location as it simply serves to "square-off" the rear of the existing home. In addition, the Planning Board finds that due to the unique property line shift in the northwest corner of the property, a hardship is created. But for this odd "jog" in the property line, no side yard setback Variance would be required. Based upon all of the foregoing factors, 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 as it would prevent the Applicant from having this enhanced family room living space.

11. 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 not be visible from the streetscape of Bay Avenue, the streetscape of Avenue A, the adjacent properties to the west due to the screening of existing sheds that are on the property line and screened from the north by a line of trees. The Planning Board notes that the grant of the requested Variance relief will not result in over building of the site as the floor area ratio, building coverage and lot coverage will still be well below that which is permitted under the Ordinance so that this is not an overdevelopment of the property. The Planning Board finds that there will be minimal, if any, visual impacts of this addition upon the neighboring properties, the neighborhood or the streetscape. Consequently, any impacts on the public good are di minimis and insubstantial.

12. 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 notes that the setback requirements are designed to ensure that buildings are not placed so close to the property lines that they have an overbearing appearance or impede upon light, air and open space of adjacent properties. In this case, the grant of Variances will not have those impacts as the northwest corner of the property already has existing sheds which will block the proposed addition from the view of the properties to the west (side) and has an existing tree line that will screen the proposed addition from the properties to the north. Thus, the Variances granted will not defend the purposes for which the Ordinance was designed as it will not have the impacts sought to be avoided by the ordinance provisions.

13. 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 Variances can and should be granted at this time.

14. 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 and evidence 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 2<sup>nd</sup> day of May, 2024 that the Application of **JOHN CORNELIUSEN & ALLYSON STOLL**, 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 with 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 to permit the construction of a family room addition with a side yard setback of 6.42 feet where 10 feet is required, rear yard setback of 14.33 feet where 20 feet is required.

2) The existing accessory building side yard setback of 2 feet where 5 feet is required and rear yard setback of 2 feet where 5 feet is required are existing conditions which shall remain.

3) The Applicant shall provide a gutter plan to the Planning Board Engineer for review and approval prior to the issuance of construction permits to ensure that stormwater is properly controlled.

**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. Hawley

SECONDED BY: Mr. Bearmore

ROLL CALL:

YES: Mr. Caccamo, Mr. Hawley, Mr. Josko, Ms. Majewski, Mr. Bearmore, Acting Chair Krupinski

NO: None

ABSTAIN: None

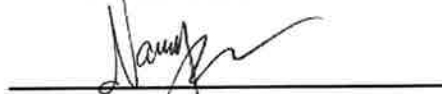
INELIGIBLE: Ms. DePasca, Councilman Dougherty, Mr. Kurdes

ABSENT: Mr. Neff, Chair McGoldrick, Dr. Zuzulock, Ms. Walter



**Dave Krupinski, Acting Board Chair**  
**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 May 2, 2024.



**Nancy Tran, Secretary**  
**Planning Board Borough of Atlantic Highlands**