

**ANNUAL REPORT FOR YEAR 2024  
OF ATLANTIC HIGHLANDS UNIFIED  
PLANNING BOARD/ZONING BOARD OF ADJUSTMENT<sup>1</sup>**

Pursuant to N.J.S.A. 40:55D-70.1, the Zoning Board of Adjustment shall, at least once a year, review its decisions on applications and appeals for variances and prepare and adopt by Resolution a report of its findings on zoning ordinance provisions which were the subject of variance requests, and its recommendations for zoning ordinance amendment or revision, if any. The Zoning Board of Adjustment is required to send copies of the report and resolution to the Governing Body and Planning Board. Pursuant to N.J.S.A. 40:55D-25 the Planning Board of the Borough of Atlantic Highlands has been authorized to exercise, to the same extent and subject to the same restrictions, all the powers of the Zoning Board of Adjustment as a unified board. This report is intended to satisfy the foregoing provisions of the Municipal Land Use Law. The report of the Borough of Atlantic Highlands Unified Planning Board/Zoning Board of Adjustment is as follows:

The following is a listing of applications, including an identification of the Applicant’s property, nature of the application and disposition of the case.

<b>App.#</b>	<b>Block &amp; Lot #</b>	<b>Street Address</b>	<b>Applicant/Relief</b>	<b>Zone District</b>
<b>PB 23-09</b>	<b>Bl. 125, Lot 8</b>	<b>43 Avenue C</b>	<b>Messercola</b>	<b>R-1</b>
			<b>Minor Subdivision</b>	
			<b>Bulk Variances</b>	

The Applicant applied to the Planning Board of the Borough of Atlantic Highlands for Minor Subdivision approval to subdivide an existing 21,250 square foot (0.49 acre) site into three (3) residential building lots. The subject property was presently developed with a vacant 5,500 square foot, one-story building previously used as a fireman’s field house with an associated parking area and other ancillary improvements. The proposed subdivision required the following Variance relief:

1. Lot are of 7,350 square feet where 7,500 square feet is required for new lot 8.01.
2. Lot area of 6,825 square feet where 7,500 square feet is required for new lot 8.02.
3. Lot area of 6,825 square feet where 7,500 square feet is required for new lot 8.03.
4. Lot frontage of 70 feet where 75 feet is required for new lot 8.01

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<sup>1</sup>December 19, 2024

5. Lot frontage of 65 feet where 75 feet is required for new lot 8.02.
6. Lot frontage 65 feet where 75 feet is required for new lot 8.03.
7. Lot width of 65 feet where 75 feet is required for new lot 8.02.
8. Lot width of 65 feet where 75 feet is required for new lot 8.03.
9. Lot shape diameter of 45 feet where 50 feet is required for new lot 8.02.
10. Lot shape diameter of 45 feet where 50 feet is required for new lot 8.03.
11. Lot width for corner lot of 70 feet where 75 feet is required for new lot 8.01.
12. Lot shape diameter of corner lot of 40 feet where 45 feet is required for new lot 8.01.

The majority of the Planning Board agreed with the Applicants witnesses that a three-lot subdivision is more consistent with the character of the neighborhood and surrounding community and would promote the purposes of the Municipal Land Use Law as testified to by the Applicants witnesses and established the positive criteria for the grant of the requested Variance relief. The majority of the Planning Board further found that the Applicant satisfied the negative criteria for the grant of the requested Variance relief.

The Planning Board found that the grant of the requested Variance relief would not result in any substantial detriment to the public good. More particularly, the Planning Board found that the grant of the requested Variances would permit a three-lot subdivision that would be more consistent with the existing neighborhood scheme and would not result in oversized lots with untypical larger homes that would be inconsistent with the development of the neighborhood. Thus, the majority of the Planning Board found that the grant of the requested Variance relief would not result in substantial detriment to the public good but would, in fact, have positive impacts.

The Planning Board further found that the grant of the requested variance relief would not result in any substantial impairment of the Zone Plan or Zoning Ordinance. The Planning Board noted that there are a significant number of Variances requested. However, the Planning Board found that the deviations proposed are minimal and di minimis in scope and would result in lots that are consistent with the neighborhood scheme. The Planning Board found that the Ordinance provisions in question are designed to control development so that lots are of sufficient size to accommodate residential development without resulting in the appearance of overbuilding on properties. In this case, the proposal was to remove the existing improvements covering 100% of the site and replace them with an attractive three-lot subdivision that will have three homes with adequate

setbacks and conforming coverages. Thus, any adverse impacts flowing from the grant of the requested Variance relief were di minimis and insubstantial.

**APPROVED**

<b>App.#</b>	<b>Block &amp; Lot #</b>	<b>Street Address</b>	<b>Applicant/Relief</b>	<b>Zone District</b>
<b>PB23-07</b>	<b>Bl. 104, Lots 1&amp;2</b>	<b>1 Bayshore Plaza.</b>	<b>VSV, LLC Bulk Variance Minor Site Plan</b>	<b>HB</b>

The Applicant applied to the Planning Board of the Borough of Atlantic Highlands to modify an existing one-story building at the northeast corner of the site previously used as a bank to be used as a retail smoke shop requiring Variance and Minor Site Plan approval. The application was scheduled for hearing on February 1, 2024. By letter dated January 30, 2024, the Applicant, through Counsel, requested that the application be withdrawn without prejudice. At its meeting conducted on February 1, 2024, the Planning Board considered the request and having not commenced the hearing and having made no determination as to the merits of the application, the Planning Board found that the request of the Applicant for withdrawal should be granted, and the application was dismissed without prejudice.

**WITHDRAWN**

<b>App.#</b>	<b>Block &amp; Lot #</b>	<b>Street Address</b>	<b>Applicant/Relief</b>	<b>Zone District</b>
<b>PB23-11</b>	<b>Bl. 81, Lots 5</b>	<b>52 Asbury Ave.</b>	<b>Richards Bulk Variance</b>	<b>R-1</b>

The Applicant applied to the Planning Board of the Borough of Atlantic Highlands for Variance approval to convert a side porch area into an enclosed laundry room requiring Variance relief pursuant to Section 150-49 (1) which provides that a nonconforming lot may not be used for any purpose unless (a) the proposed use and all existing uses is/are permitted principle or accessory uses, and (b) the lot conforms to the minimum lot area requirements of this chapter. In this case, the proposed use was permitted. However, the lot has an area of 6,500 square feet where 7,500 square feet is required. The foregoing is contrary to the provisions of Chapter 150, Article VII, Section 150-49 of the Development Regulations of the Borough of Atlantic Highlands.

The current laundry room in the home is located in an unfinished basement which is dark and cramped. The Applicant desired to close the existing covered porch on the side of the house and create living space which

would include adequate area for a laundry room in the upstairs portion of the home permitting the Applicant to do laundry in the main living space rather than the basement which has inadequate ceiling height and area. In addition, the Applicants wanted to have the basement area available for storage as there is very limited storage area in this modest home.

The Planning Board found that the Applicant satisfied the positive criteria for the grant of the requested Variance relief. The Planning Board found that this is an existing, undersized lot of record and is an elongated rectangle in shape. The property is already developed with an existing residential home with existing Nonconforming elements, for lot area of 6,500 square feet where 7,500 square feet is required, lot frontage and width of 50 feet where 75 feet is required, lot shape diameter of 20 feet where 45 feet is required and existing side yard setback of 6.5 feet where 10 feet is required. The Planning Board found that all of these conditions cumulatively constitute an extraordinary and exceptional situation resulting in hardship as it would prevent the Applicant from converting an existing portion of the structure into an appropriate, functioning, living space.

The Planning Board further found that the Applicant satisfied the negative criteria for the grant of the requested Variance relief. The Planning Board found that the grant of the requested Variance relief would not result in any substantial detriment to the public good as this is an existing residential home and the enclosure of the existing covered porch would not result in any change to the building footprint, to the foundation of the building, to the height of the building or otherwise. Thus, there will be no substantial impact upon the surrounding properties. The porch will not be visible from Asbury Avenue as it will be blocked from view by the existing home. It will have minimal or no visibility to the properties to the west and to the north (rear). Any potential impact would be to the property to the east which will be di minimis as there will be no increase in the building, only the enclosure of the existing porch area.

The Planning Board further found that the grant of the requested variance relief would not result in any substantial impairment of the Zone Plan or Zoning Ordinance as this is an existing residence within an existing residential neighborhood. The proposed changes will not have any impacts upon the streetscape or the surrounding properties or the Zone Plan or Zone Scheme in this area of the Borough. The Planning Board found that the Ordinance in question requiring Variance approval for changes to lots which have a nonconforming lot area is to ensure that there will be no additions and improvements to properties that will be overly expansive and have adverse impacts upon their surrounding properties and the Zone Scheme. In this case, the proposed modest enclosure of an existing covered porch will not have those impacts sought to be avoided by the Ordinance.

**APPROVED**

<u>App.#</u>	<u>Block &amp; Lot #</u>	<u>Street Address</u>	<u>Applicant/Relief</u>	<u>Zone District</u>
<b>PB 23-13</b>	<b>Bl. 80, Lot 3</b>	<b>52 E. Garfield Ave.</b>	<b>Siclare Bulk Variances</b>	<b>R-1</b>

The Applicant applied to the Planning Board of the Borough of Atlantic Highlands for Variance approval to construct a two story addition to an existing single family residence which required Variance approval as the existing lot area is 6,750 square feet where 7,500 square feet is required and pursuant to Section 150-49 (1) a nonconforming lot may not be developed unless the lot conforms with the minimum lot area requirements. In addition, the proposed improvements resulted in lot coverage of 59.1% where 50% is the maximum permitted.

The subject property has the following existing, nonconforming elements, which would remain that are not exacerbated by the application:

- a. Lot area of 6,750 square feet where 7,500 square feet is required (Section 150-29 (A)(2)(Exhibit 5-2)
- b. Lot frontage and width of 50 feet where 75 feet is required (Section 150-29 (A)(2)(Exhibit 5-2)).
- c. Lot shape diameter of 20 feet where 50 feet is required (Section 150-29 (A)(2)(Exhibit 5-2)).
- d. Front yard setback of 19.6 feet where 20 feet is required (Section 150-29 (A)(2)(Exhibit 5-2)).
- e. Accessory side yard setback of 3.2 feet where 5 feet is required (Section 150-29 (A)(2)(Exhibit 5-)).
- f. Accessory rear yard setback of 2.8 feet where 5 feet is required (Section 150-29 (A)(2)(Exhibit 5-2)).

The applicant's architect testified that this is an older structure constructed in or about 1908, which has an awkward layout and limited living area. The Applicant desired to construct a two-story addition for a better functioning interior of the home, particularly to remove an existing staircase which is severely out of code and from an architectural standpoint is a dangerous condition. The architect testified that the proposed addition will be an attractive and functional improvement to the existing residence. The Planning Board agreed.

The architect testified that the property meets both the hardship and planning criteria for Variance relief. With respect to hardship, he noted the existing out of code staircase is dangerous and requires replacement which will be accommodated in part by the proposed addition. He further testified that a planning Variance is justified pursuant to N.J.S.A. 40:55D-2 a, i, & l as the grant of the Variance relief will promote the public health and safety by replacing a dangerous staircase with a code compliant staircase, will promote a desirable visual

environment and will encourage senior citizen housing as the Siclares are senior citizens and the purposes of the renovations include replacement of a dangerous staircase making it possible for them to continue to reside in the home rather than have to relocate. He further opined that there will be no negative impacts as the proposed addition does not create any new nonconformities and will not exacerbate any existing nonconforming elements. Therefore, he opined that there will be no negative impacts to the surrounding properties in the neighborhood or the Zone Plan or Zoning Ordinance as the proposed addition will not alter the character of the neighborhood.

**APPROVED**

<b>App.#</b>	<b>Block &amp; Lot #</b>	<b>Street Address</b>	<b>Applicant/Relief</b>	<b>Zone District</b>
<b>PB24-04</b>	<b>Bl. 28, Lot 9</b>	<b>164 E. Washington Ave.</b>	<b>Keenan Bulk Variance</b>	<b>R-1</b>

The Applicant applied to the Planning Board of the Borough of Atlantic Highlands for Variance approval to permit the construction of a 276 square foot, three story addition requiring Variances for front yard setback of 14.70 feet where 20 feet is required and a building height of 3 stories where 2.5 stories is permitted. 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.

The applicants testified that the existing residence is a small, two bedroom home and their family has two children resulting in a need for an additional bedroom. They testified that the logical place for an addition would be to the northerly side of the home and “square off” the “L” shape of the building. They testified that the proposed location will be over an existing impervious patio area and that the existing shed in that same area will be removed. Thus, the impervious surface in a steep slope area will continue existing conditions. The Applicants testified that they have an existing roof runoff system into which the new addition will direct stormwater to release runoff at several points within the yard area so that it will allow for infiltration prior to runoff reaching adjacent properties or the street. The Applicants testified that there will be no tree or shrub disturbance. The Applicant provided a Steep Slope Area of Disturbance plan and agreed to adhere to the requirements and conditions set forth in that plan and in the Area of Disturbance Plan to ensure that there are no adverse impacts to the steep sloped area.

Question was raised as to whether the proposed addition would be 2.5 stories or 3 stories in height. After review it was determined that a height Variance is required and that, based upon the architectural drawings from the existing home configuration, it is appropriate to have the addition continue the existing building lines and elevations.

The Planning Board found that the Applicant satisfied the positive criteria for the grant of the requested Variance relief. With respect to the front yard setback, the existing residence is at 15.20 feet where 20 feet is required. The proposed addition will only change that dimension by .5 feet (6 inches). The Planning Board found that the topography of the property coupled with the location and “L” shape of the existing building and that the proposed addition will be over currently impervious area, a hardship does exist with respect to the property as the proposed location of the addition is the most appropriate and cannot be achieved without Variance approval. With respect to building height, the topography of the site coupled with the location and configuration of the existing residence created practical difficulties such that an appropriate addition in the best location cannot be achieved without the height deviation.

The Planning board found that the addition will not be visible from East Washington Avenue, will have no impact upon the streetscape in that area, will not be visible to the adjacent property to the west as it will be blocked by the existing residence, will have only minimal impact, if any, upon the property to the east as it will be blocked by the detached garage and will be at a distance that substantially exceeds the side yard setback. The addition will have little impact to the north as it will be at a lower elevation than North Avenue and will be a sufficient distance from the properties on the opposite side of North Avenue and at a lower elevation so as to have di minimis impact upon them.

The Planning Board further found that the grant of the requested Variance relief would not result in any substantial impairment of the Zone Plan and Zoning Ordinance. With respect to the front yard setback, the Ordinance is intended to ensure that buildings are not located so close to the front setback line as to have an overly imposing appearance or massive appearance upon the streetscape. In this case, due to the topography of the property coupled with the current location of the existing residence the addition will not have the impacts sought to be avoided by the Ordinance provision. With respect to the height Variance the proposed addition makes sense with respect to the existing structure and will have an appearance architecturally that is consistent with the area and will not appear to be excessive in height due to the topography of the property and the architectural design of the addition.

**APPROVED**

<b>App.#</b>	<b>Block &amp; Lot #</b>	<b>Street Address</b>	<b>Applicant/Relief</b>	<b>Zone District</b>
<b>PB24-03</b>	<b>Bl. 27, Lot 5</b>	<b>1 Observatory Pl.</b>	<b>Murray Bulk Variance</b>	<b>R-2</b>

The Applicant applied to the Planning Board of the Borough of Atlantic Highlands for Variance approval to construct expansion to an existing one story dwelling by adding a 1,330 square foot second story over the existing first floor and rear patio and a 837 sq. ft. two story addition along with a covered side porch and raised patio requiring Variances for side yard setback of 10.3 feet where 15 feet is required, rear yard setback of 11.3 feet where 30 feet is required and maximum lot coverage of 23.9% where 15% is permitted.

The Planning Board found that the Applicant satisfied the positive criteria for the grant of the requested Variance relief. The subject property is an elongated rectangle in shape and it is difficult to provide full side yard setbacks for a reasonably sized home. In addition, the location of the existing dwelling limits where additions can be placed. In this case, in order to provide an addition to the easterly side of the property to connect with the existing studio and to follow the existing wall line of the studio, which is nonconforming, requires Variance relief and imposes a hardship upon the Applicant to comply with the side yard setbacks as the two-story addition needs to be aligned with the existing improvements on the property. Similarly, a hardship exists with respect to the rear yard setbacks as the existing residence is constructed in the southern portion of the property with a minimal rear yard and the existing studio already has a nonconforming setback of 11.3 feet. Thus, any additions to the rear of the property, of reasonable size, will intrude into the rear yard.

With respect to the side yard setback of the two-story addition, the Planning Board found that the adjacent property to the east is developed with a water tank structure. Any impact upon this property will be minimal. The addition will have no adverse impacts on the properties to the south as it will be fully blocked by the existing studio building and will have minimal or no impact upon the streetscape of Observatory Place as it is setback nearly four times the required front yard setback. Similarly, it will have little or no impact upon the properties to the west as it will be blocked by the existing residence and will well exceed the side yard setback requirement on that side of the property. With respect to the rear yard setback, the nonconforming rear yard setback is an existing condition. While the deviation will be increased the additional construction will not be as large a deviation as existing conditions. The addition will not be visible from the property to the east, from Observatory Place or to the north as it will be blocked by the existing residence and will be distant from properties to the east and have little or no impact upon them. Impacts upon the property to the south will be less than existing conditions and the proposed improvements are small in scale. Thus there will be no substantial detriment to the public good as the proposed improvements will not have substantial negative impacts on the surrounding properties and neighborhood.

The Planning Board further found that the grant of Variance relief would not result in any substantial impairment of the Zone Plan and Zoning Ordinance. The setback requirements are designed to ensure that buildings are not placed so close to the property line as to have an overbearing appearance of being too large

and imposing or intruding upon light, air and open space. The Planning Board found from the survey and architectural plans that the proposed improvements would not have those impacts and would not offend the purposes for which the Ordinance was designed or change the character of the area or the neighborhood zoning scheme.

**APPROVED**

<b>App.#</b>	<b>Block &amp; Lot #</b>	<b>Street Address</b>	<b>Applicant/Relief</b>	<b>Zone District</b>
<b>PB23-12</b>	<b>Bl. 98, Lot 8</b>	<b>29 E. Mount Ave.</b>	<b>Rovere BulkVariance</b>	<b>R-1</b>

The Applicant applied to the Planning Board of the Borough of Atlantic Highlands for Variance approval to remove an existing garage and construct a new garage on the same footprint requiring Variance relief for accessory side yard setback of 3.5 feet where 5 feet is required (Section 150-29)(A)(2)(Exhibit 5-2)) and accessory rear yard setback of 2.9 feet where 5 feet is required (Section 150-29)(A)(2)(Exhibit 5-2)).

Although, pursuant to N.J.S.A. 40:55D-68 the existing garage is allowed to remain notwithstanding its nonconforming side and rear yard setbacks, once the building is demolished a new replacement structure is required to conform with the requirements of the zone. The Planning Board found that the immediately adjacent properties have either framed garages or sheds closer to the subject property line than the proposed framed garage. The Planning Board also found that the existing driveway entering from Third Avenue is aligned with the existing garage. Due to the location of the existing garage, residence and driveway improvements, the appropriate place to construct a new garage is on the footprint of the existing garage. In addition, the Applicant will be able to utilize the foundation of the existing garage which will result in less property disruption and lower cost.

The Planning Board found that the property bordering the proposed new garage, contains framed garage and framed shed structures that are closer to the property line than what is proposed by the Applicant. They will shield the new garage from the surrounding properties. Moreover, the garage will not be out of character with existing conditions in the area and have been in existence for many years setting the character of the area. Any adverse impacts upon the surrounding properties and the neighborhood are di minimis and insubstantial.

The Planning Board found that the Variance relief would not result in any substantial detriment to the public good as the property borders in the vicinity of the proposed new garage contain framed garage and frame shed structures that are closer to the property line than what is proposed and will shield the new garage from the surrounding properties. The garage will not be out of character with existing conditions in the area that have

been in existence for many years setting the character of the area. Consequently, any adverse impacts upon the surrounding properties, the neighborhood and the neighborhood scheme are di minimis and insubstantial.

**APPROVED**

<b>App.#</b>	<b>Block &amp; Lot #</b>	<b>Street Address</b>	<b>Applicant/Relief</b>	<b>Zone District</b>
<b>PB24-02</b>	<b>Bl. 129, Lot 1</b>	<b>64 Bay Ave.</b>	<b>Corneliusen Bulk Variance</b>	<b>R-1</b>

The Applicant 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 Planning board found that 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 the interior configuration of the home result in a hardship as enlarging the family room cannot reasonably be accomplished without variance relief.

The Planning Board found that the Applicant satisfied the positive criteria for the grant of the requested Variance relief. The Planning Board agreed with the Applicant that the proposed addition is in the only practical location to be placed on the property. 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 found that due to the unique property line shift in the northwest corner of the property, a hardship exists. But for this odd “jog” in the property line, no side yard setback Variance would be required.

The Planning Board found that the grant of the requested variance relief would not result in any substantial detriment to the public good. The 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 and screened from the north by a line of trees. The Planning Board found that the grant of the requested Variance relief would not result in over building of the site as the floor area ratio, building coverage and lot coverage is still well below that which is permitted under the Ordinance so that this is not an overdevelopment of the property. The Planning Board found that there will be minimal, if any, visual impacts of this addition upon the

neighboring properties, the neighborhood, the streetscape or the zone scheme. Consequently, any impacts on the public good and zone plan were di minimis and insubstantial.

**APPROVED**

<b>App.#</b>	<b>Block &amp; Lot #</b>	<b>Street Address</b>	<b>Applicant/Relief</b>	<b>Zone District</b>
<b>PB24-01</b>	<b>Bl. 97, Lot 10</b>	<b>78 First Ave.</b>	<b>Wyrd Witch Use Variance</b>	<b>HBD</b>

The Applicant applied to the Planning Board of the Borough of Atlantic Highlands for Use Variance approval to permit the provision of personal services within its existing retail store/metaphysical shop including individual counseling services and group meetings covering a variety of women’s personal, metaphysical, astrological, historical and other topics which constitute a personal service use.

The Planning Board found that the Master Plan goals and objectives include encouraging improvements in the business and entertainment and the light industry fields to strengthen commercial attraction, promote a viable economic base and expand the choice of goods, services and employment opportunities available within the Borough, This includes upgrading and revitalizing the business and entertainment districts to attract businesses and customers. The Master Plan encourages the provision of sufficient space in appropriate locations for commercial, residential, light, industrial, open space and recreational uses. The Master Plan encourages the establishment of a viable economic base and encourages commercial areas to support existing businesses and attract new businesses which can provide new opportunities for goods, services, employment and customers.

Given the objectives of the Master Plan and coupled with the testimony of the Applicants witnesses, the Planning Board found that the grant of Variance relief would constitute municipal action to guide the appropriate use and development of lands within the Borough, promote the general welfare and provide sufficient space in an appropriate location for a variety of uses including this proposed commercial use providing for a greater variety of uses within the HBD Zone District which will promote and encourage business opportunities within the First Avenue corridor. Thus, the Planning Board found that the Variance would promote the purposes if the Municipal Land Use Law at N.J.S.A. 40:55-D-2.a. and g. The Planning Board agreed with the Applicant that this use will harmonize with other uses in the vicinity and will provide enhanced services to residents of the Borough and the surrounding community.

The Planning Board further found that the grant of the requested Variance relief would not result in any substantial detriment to the public good. The Planning Board found that there is an existing conforming retail commercial establishment in the subject property that will continue. This added amenity will provide additional services, attract more customers to its establishment and to those in the proximity to it. The hours of operation will be unchanged from the current business hours so as not to have a more intense impact upon the surrounding neighborhood and the change in use to accommodate the personal services component does not create greater parking need which is already provided for in the existing public parking area. Thus, the Planning Board found that the grant of the requested Variance relief would not result in any significant change to the existing conditions in the area and would have di minimis, if any, negative impacts upon the public good. In fact, the Planning Board anticipated that the impacts would be positive by encouraging a more vibrant commercial environment.

The Planning Board further found that the grant of the requested Variance relief would not result in any substantial impairment of the Zone Plan or Zoning Ordinance. The Master Plan is replete with goals and objectives that encourage broadening the goods and services available to the residents of the Borough, as well as residents of the surrounding community. The Planning Board found that the grant of the requested Variance relief here would serve to promote the purposes of the Master Plan and will be consistent with Zone Plan and Zoning Ordinance.

**APPROVED**

<b>App.#</b>	<b>Block &amp; Lot #</b>	<b>Street Address</b>	<b>Applicant/Relief</b>	<b>Zone District</b>
<b>PB22-18</b>	<b>Bl. 17, Lots 18.01 &amp; 18.02</b>	<b>170 Ocean Blvd.</b>	<b>Baker Minor Subdivision Bulk Variance</b>	<b>R-3</b>

The Applicant applied to the Planning Board of the Borough of Atlantic Highlands for approval to subdivide existing lots 8.01 and 8.02 into proposed lots 8.03 and 8.04 and to construct a new single family home and driveway on new lot 8.04 requiring Variances for lot frontage, lot width, minimum gross floor area and minimum total gross floor area on a lot that will not front on a public street. The Applicant appeared before the Planning Board of the Borough of Atlantic Highlands at its meeting in November 2023 at the conclusion of which the Applicant requested that the matter be adjourned. Thereafter the matter was adjourned on several occasions at the request of the Applicant and was scheduled for continuation hearing on May 2, 2024.

The Applicant's attorney Salvatore Alfieri, Esq. requested that the matter be withdrawn without prejudice. The Applicants request for withdrawal was considered by the Planning Board and the Planning Board having not reached any final determination with respect to the relief requested in connection with the application determined that it was appropriate to grant the request of the Applicant for withdrawal without prejudice.

**WITHDRAWN**

<u>App.#</u>	<u>Block &amp; Lot #</u>	<u>Street Address</u>	<u>Applicant/Relief</u>	<u>Zone District</u>
<b>PB24-07</b>	<b>Bl. 115, Lot 6</b>	<b>69 First Ave.</b>	<b>Ruotolo Minor Site Plan</b>	<b>HBD</b>

The Applicant applied to the Planning Board of the Borough of Atlantic Highlands for approval to add an additional use to an existing retail store permitting it to serve coffee and espresso drinks along with the sale of baked goods requiring minor site plan approval for a change of use. No grading, drainage modifications or exterior work was proposed. The applicant did not propose any exterior renovations to the property. The only renovation would be limited to the installation of a coffee service area within the existing retail store area with a refrigerator, coffee and espresso machines and the sale of pre-packaged goods. There would be no food preparation on site. There would be no additional employees required for this added service.

The business will be open from 8 o'clock am until 5 o'clock pm. Coffee will be counter service only, not self-serve, and there will be no seating for patrons. The coffee will either be purchased by customers who will then exit the store or will be purchased and consumed by customers while they are shopping in the store. Deliveries to the store will continue to be from small vans and not from large vehicles. The premises in question are in immediate vicinity of the public parking area less than 300 feet from its geographic center such that parking requirements are satisfied. The ingress and egress to the retail establishment shall be from First Avenue. However, the facility does have a rear door for emergency ingress and egress.

The Planning Board found that the application was for minor site plan approval. Section 150-21 of the Ordinance requires such approval for the new use and occupancy of any building. Since the change of use is to a permitted use there was no Variance relief required in connection with the application. The Planning Board found that the application met the conditions required for minor site plan approval including that:

1. The construction of drainage facilities is not required either on or off-site.
2. New building construction and/or building additions do not exceed 1,000 square feet of gross floor area (none-proposed).
3. Proposed development does not increase parking requirements by more than 5 spaces.

4. The proposed development conforms to the performance standards set forth in Article V.
5. The proposed development does not require a CAFRA permit.
6. The proposed development does not involve planned development.
7. The proposed development does not involve any new street or the extension of any existing street.
8. The proposed development does not involve the extension or construction of any off-tract improvements.
9. The proposed development does not involve the disturbance of 5,000 square feet or more of ground area.

As a result of all of the foregoing, the Planning Board found that the Applicant satisfied the requirements for the grant of minor site plan approval and that minor site plan approval was granted.

**APPROVED**

<b><u>App.#</u></b>	<b><u>Block &amp; Lot #</u></b>	<b><u>Street Address</u></b>	<b><u>Applicant/Relief</u></b>	<b><u>Zone District</u></b>
<b>PB 23-10</b>	<b>Bl. 97, Lots 15</b>	<b>58 First ave.</b>	<b>Birchwood Major Site Plan Bulk Variance Conditional Use Variance</b>	<b>HBD / R-1</b>

The Applicant applied to the Planning Board of the Borough of Atlantic Highlands for Variance and Site Plan approval to modify an existing two story building to be used as a mixed-use building with retail space on the first floor and three (3) residential apartment units on the second floor including two (2) two-bedroom apartments and one (1) one-bedroom apartment along with associated driveway, parking area and landscaping improvements requiring a Conditional Use Variance for one of the two-bedroom dwelling units with a habitable floor area of 883.3 square feet where 900 square feet is required (Section 150-42.A(4)(b)), Lot coverage of 86.5% where 50% is permitted and 86.1% exists, (Section 150-29.(A)(2)(Exhibit 5-2)), Seven (7) parking spaces where twenty five (25) parking spaces are required, (Section 150-42.A(1)/Section 150-89.B(1)(h)(Exhibit 9-2), entry driveway 2.5 feet from southerly side property line where 5 feet is required (Section 150-54.F), ADA parking space with dimensions of 11 ft. x 18 ft. where 12 ft. x 20 ft. is required (Section 150-89.B(2)), not having a full 5 foot wide buffer around perimeter of parking area, garbage collection area, utilities area (Section 150-85.E(2)(b)), and loading and unloading areas with 23.3% common open space proposed where 30% is required (Section 150-87A(1), Residential parking spaces in a front yard along Second Avenue (Section 150-89.B(1)(f), and absence of concrete curbing along perimeter of all parking areas, internal

islands and planting areas (Section 150-89.B(3)(f)). The Applicant initially included a three-car garage structure with one parking space for each residential unit. However, during the course of the hearing, in response to comments from interested residents the proposal for the garage was removed.

As to the conditional use Variance to allow one apartment to have less than the required 900 square feet The Planning Board found that the grant of the requested Variance relief would promote the purposes of the Municipal Land Use Law as it would provide sufficient space in an appropriate location for this residential use. The Planning Board further found that the grant of the Variance would not result in any substantial detriment to the public good as the apartment is located within an existing building and the deficiency in square footage is di minimis and will have no impact upon the surrounding neighborhood. In addition, there will be no substantial impairment of the Zone Plan and Zoning Ordinance as the 16.7 square foot deviation will be imperceptible and have no impact upon the Zone Plan or Zoning Ordinance.

With respect to the parking deficiency the proposed improvements reduce the required number of parking spaces and therefore is an improvement over existing conditions. The parking and traffic impact of the proposed development will be an improvement over existing conditions and will not result in any detriment to the surrounding neighborhood or impairment of the Zone Plan or Zoning Ordinance.

With respect to the remaining bulk Variances for impervious lot coverage, driveway location, handicapped parking space dimension and deviation from the required common open space the Planning board fund that these are all a result of the elongated rectangular shape of the property that precludes reasonable development of the property without granting these minor deviations which have minimal and insubstantial impact upon the surrounding neighborhood and the Zone Scheme.

As a result of all of the foregoing the Planning Board found that the Applicant satisfied the positive and negative criteria for the grant of the requested Variance relief and that the Variances should be granted. The Planning Board further found that the Applicant submitted a site plan and such other information as is reasonably necessary to make an informed decision as to whether the requirements necessary for site plan approval had been met and that the detailed drawings, specifications and estimates of the application conform to the standards established for final approval and that site plan approval should be granted.

**APPROVED**

<b><u>App.#</u></b>	<b><u>Block &amp; Lot #</u></b>	<b><u>Street Address</u></b>	<b><u>Applicant/Relief</u></b>	<b><u>Zone District</u></b>
<b>PB24-06</b>	<b>Bl. 97, Lot 25</b>	<b>9 Second Ave.</b>	<b>Barrett Bulk Variance</b>	<b>R-1</b>

The Applicant applied to the Planning Board of the Borough of Atlantic Highlands to retain a paver patio and 6 foot high privacy fence installed without approvals requiring Variance relief for impervious lot coverage of 61.65% where 50% is permitted (Section 150-29(A)(2)(Exhibit 5-2)) and to place a 60 inch tall fence in a front yard where 48 inches in height is permitted (Section 150-70(A)(1)) contrary to the provisions of Chapter 150, Article V, Section 150-29 and Article VII, Section 150-70 of the Development Regulations of the Borough of Atlantic Highlands.

The property owner testified as to the existing conditions of the property and that the rear yard is essentially a grassed area and that the Applicant desired to have some additional recreational patio area along the side of the home with a 6 foot fence in the front yard area extending from the front porch area to the 6 foot high fence of the adjacent neighbor. That fence will provide some degree of privacy from passersby along Second Avenue.

The Planning Board found that the subject property and the location of the existing residence thereon leaves minimal area for recreation which results in a hardship. The area available for recreation principally includes this side yard that is visible from Second Avenue resulting in a lack of privacy. As a result the Planning Board found that an extraordinary and exceptional situation uniquely effecting 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 undue hardship upon the Applicant as it would prevent the Applicant from having these modest amenities to enhance the enjoyment of their property. The Planning Board further found that the grant of the Variance would result in promoting the purposes of the Municipal Land Use Law by providing sufficient space in an appropriate location for this amenity for a residential use and to promote a desirable visual environment.

The Planning Board further found that the Applicant satisfied the negative criteria for the grant of the requested variance relief. The Planning Board found that the grant of the requested variances would not result in any substantial detriment to the public good. The Planning Board agreed with the Applicant that these amenities to the property actually improve the streetscape of Second Avenue and have little or no impact upon the adjacent properties and neighborhood other than to provide a more aesthetically pleasing appearance. Thus, any detriment to the public good is di minimis and insubstantial.

The Planning Board further found that the grant of the variance would not result in any substantial impairment of the Zone Plan and Zoning Ordinance. The Planning Board found that the lot coverage Ordinance is designed to ensure that there are not stormwater problems caused by excessive impervious coverage and result in the appearance of overbuilding or overintense use of the property. In this case, the Planning Board found that the proposed increase in impervious is minimal and that the Applicant has taken measures to avoid

any stormwater management impacts of the patio. The patio is at ground level and will have no visual impacts so that it will not have the appearance of overbuilding or overintense use of the property. With respect to the fence height, the Ordinance is designed to ensure that properties do not have an appearance of being a gated community. In this case, the fence is only across a portion of the frontage. The Planning Board found that it matches the fencing of the neighbors' side yard so as to give a consistent and pleasing aesthetic appearance to the streetscape. Thus, the proposed improvements would not offend the purposes for which the Zoning Ordinances were enacted.

**APPROVED**

<u>App.#</u>	<u>Block &amp; Lot #</u>	<u>Street Address</u>	<u>Applicant/Relief</u>	<u>Zone District</u>
PB24-09	Bl. 133, Lot 10	93 Bay Ave.	Williams Bulk Variance	R-1

The Applicant applied to the Planning Board of the Borough of Atlantic Highlands for approval to install a private stone driveway 57 feet long and 10 feet wide resulting in excessive lot coverage of 70.06% where 50% is permitted (Section 150-29(A)(2)(Exhibit 5-2)) with a driveway less than 5 feet from the side property line and less than 1 foot was proposed (Section 150-54(F)).

The premises has approximate dimensions of 50.00 ft. x 130.00 ft. x 50.00 ft. x 130.00 ft. and is an elongated rectangle in shape with an approximate area of 6,500 square feet. The subject property is an undersized lot in the zone resulting in a variety of existing nonconforming elements, the most significant of which is lot frontage and width of 50 feet where 75 feet is required. The property is presently developed with a two story residential dwelling with detached frame garage, masonry block patio, a shared driveway with adjacent lot 11 to the east and various walkways. The shared driveway is located along the easterly property line. The Applicants proposed to construct a new private stone drive 57 feet long and 10 feet wide on the opposite side of the property along the westerly property line. That proposed driveway will mirror the existing driveway on adjacent lot 9 to the west.

The Planning Board found that the Applicant satisfied the positive criteria for the grant of the requested Variance relief. The Planning Board found that this is a long narrow lot which makes it difficult to comply with the side yard setbacks and creates a hardship in that respect. In addition, the property is currently sharing a paved driveway which causes difficulties to the property owner that can be alleviated by the new driveway. With respect to lot coverage a substantial portion is due to a stone surface area to the rear of the structure where the applicant currently parks vehicles that he restores as a hobby. Although not paved, the stone surfaces were included in the calculation for lot coverage. The Applicant will utilize stone from those surfaces for the

new driveway thus restoring some of the rear yard to a previous condition. The Planning Board found that the only practical location for the proposed driveway is where it is shown by the Applicant. The Planning Board found that the strict application of the Development Regulations of the Borough of Atlantic Highlands would result in undue hardship upon the Applicant as it would prevent the Applicant from having this amenity which is an appropriate amenity in the R-1 Zone District.

The Planning Board found that the Applicant satisfied the negative criteria for the grant of the requested variance relief. With respect to lot coverage the Planning Board found that the increase in stormwater will not be substantial, and the Applicant agreed to provide a drywell in order to mitigate any adverse impacts. With respect to the side yard setback, the driveway will mirror the driveway on the adjacent property and will have the same appearance to harmonize with that property. Therefore, any adverse impacts from the grant of the requested Variance relief are di minimis and insubstantial.

The Planning Board further found that the grant of the requested variance relief would not result in any substantial impairment of the Zone Plan and Zoning Ordinance. The lot coverage requirements are intended to ensure that excessive coverage does not result in stormwater management problems. The Applicant is providing a drywell to mitigate any adverse impacts. The lot coverage Ordinance is also designed to ensure that properties are not overdeveloped and overintensely utilized. The addition of this driveway does not have those impacts. With respect to the side yard setback the Ordinance is intended to ensure that there is adequate light, air and open space between properties and that buildings and structures are not placed so close to adjacent properties as to have an overly imposing appearance of overbuilding. In this case, the Applicant is proposing an at-grade driveway that will not impede upon light, air and open space and will not result in structures that will have an overbearing appearance. Thus, the purposes for which the Ordinances were designed are not offended by the grant of the requested Variance relief.

**APPROVED**

<b><u>App.#</u></b>	<b><u>Block &amp; Lot #</u></b>	<b><u>Street Address</u></b>	<b><u>Applicant/Relief</u></b>	<b><u>Zone District</u></b>
<b>PB22-26</b>	<b>Bl. 1, Lot 7</b>	<b>148 Bayside Drive</b>	<b>Torres Extension</b>	<b>R-3</b>

The Applicant received variance approval to permit the construction of two dormer additions along with elevated rear decks on the second and third floors and expansion of the ground floor rear deck requiring Variance relief for construction on an undersized lot with a proposed height of 3 stories where 2.5

stories are permitted by resolution adopted on October 5, 2023. The applicant requested the Planning Board to grant an extension of approval. On September 5, 2024 the application for extension was heard.

The Planning Board found that the zoning of the property has not changed and that the character of the surrounding area has not changed and that the circumstances upon which the Planning Board based its previous approval had not changed and it was appropriate to approve an extension of the approval.

**APPROVED**

<u>App.#</u>	<u>Block &amp; Lot #</u>	<u>Street Address</u>	<u>Applicant/Relief</u>	<u>Zone District</u>
<b>PB24-11</b>	<b>Bl. 101, Lot 8</b>	<b>13 E. Linclon Ave.</b>	<b>Ortiz Bulk Variance FAR Variance</b>	<b>R-1</b>

The Applicant applied to the Planning Board of the Borough of Atlantic Highlands for approval to construct a one-story addition to the rear of the existing residence along with a new rear patio, front porch and stairs which requires the following Variance relief:

- a. Front yard setback of 10.75 feet where 20 feet is required (Section 150-29(A)(2)(Exhibit 5)).
- b. Building coverage of 34.2% where 25% is permitted (Section 150-29(A)(2)(Exhibit 5)).
- c. Lot Coverage of 55% where 50% is permitted (Section 150-29(A)(2)(Exhibit 5)).
- d. Useable floor area ratio of 0.425 where 0.40 is permitted (Section 150-29(A)(2)(Exhibit 5)).

The Planning Board found that the Applicant satisfied the positive criteria for the grant of the requested Variance relief. The subject property is an undersized lot of record and is developed with a residential home, detached garage and driveway. Variances for the proposed improvements were driven by existing conditions of the property and these modest proposed amenities could not be added without Variance relief. Therefore, the Planning Board found an undue hardship upon the Applicant as requiring compliance with the Ordinance would prevent the Applicant from having these modest amenities to improve the living conditions of the home.

The Planning Board further found that the grant of the Variances would not result in any substantial detriment to the public good. The Planning Board found that the front yard setback encroachment of the new landing and steps is minimal in size and impact on the streetscape, the adjacent properties, or the surrounding neighbors. The building and impervious coverage increase was also minimal and, based upon the architectural elevations provided, would be attractive additions to the property. There will be no significant adverse impacts

upon the adjacent properties or the streetscape as the principal changes to the rear addition and patio will have no visibility from the street and will be adequately setback from the adjacent properties. The Planning Board found that any adverse impacts to the surrounding neighborhood and streetscape would be di minimis and insubstantial. With respect to floor area ratio, the improvements will not increase the number of bedrooms or the number of people utilizing the property. Nor will it increase the intensity of use of the property. Consequently, the Planning Board found that the subject property could accommodate these improvements notwithstanding the deviation from floor area ratio as it will not increase the intensity of use of the property.

The Planning Board found that the grant of Variance relief would not result in any substantial impairment of the Zone Plan or Zoning Ordinance. With respect to the front yard setback the purpose of the Ordinance is to ensure that buildings and structures are not built so close as to impede upon light, air and open space and give the appearance of an excessively large structure. In this case, this minimal landing and steps will not have that impact. With respect to building and lot coverage the Ordinance purposes are to ensure that the building and lot coverage improvements are not so great as to give the appearance of overdevelopment and to ensure that there will not be any adverse stormwater impacts. In this case, the Planning Board found that the proposed improvements would not have that impact. With respect to floor area ratio, the intent of the Ordinance is to ensure that properties are not overintensely developed and that the property can accommodate the improvements. In this case, the Planning Board found that the proposed improvements will not increase the intensity of use of the site. There are no additional bedrooms, there will be no additional uses introduced and it will continue to have the intensity of use that is envisioned for the neighborhood. The Planning Board found that the requested Variances would not offend the purposes for which the Ordinances were enacted and that the Variances in question could be granted.

**APPROVED**

<b><u>App.#</u></b>	<b><u>Block &amp; Lot #</u></b>	<b><u>Street Address</u></b>	<b><u>Applicant/Relief</u></b>	<b><u>Zone District</u></b>
<b>PB#24-05</b>	<b>Bl. 101, Lot 3</b>	<b>14 E. Garfield Ave.</b>	<b>Kalian Major Subdivision Bulk Variances</b>	<b>R-1</b>

The Applicant applied to the Planning Board of the Borough of Atlantic Highlands for approval to subdivide a 40,300 sq. ft. parcel. The hearings have commenced but have not concluded.

**PENDING**

<b><u>ZONING ANALYSIS</u></b>	<b><u>2024</u></b>	<b><u>2023</u></b>	<b><u>2022</u></b>	<b><u>2021</u></b>	
<b>NUMBER OF APPLICATIONS</b>	<b>17</b>	<b>18</b>	<b>23</b>	<b>30</b>	
<b>NUMBER GRANTED<sup>2</sup></b>	<b>14</b>	<b>13</b>	<b>18</b>	<b>22</b>	
<b>NUMBER DENIED</b>	<b>0</b>		<b>1</b>	<b>4</b>	<b>0</b>
<b>NUMBER DISMISSED/WITHDRAWN<sup>3</sup></b>	<b>2</b>	<b>4</b>	<b>1</b>	<b>5</b>	
<b>NUMBER STILL PENDING</b>	<b>1</b>	<b>0</b>	<b>3</b>	<b>4</b>	
<b><u>APPLICATIONS BY ZONE</u> *</b>					

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<sup>2</sup> It should be noted that the high approval rate is the result of the Planning Board taking an active role in working with Applicants during the hearing process to suggest revisions to plans to improve design, diminish the extent of, or remove, variances and mitigate impacts in order to transform an unapprovable application into an approvable one. In addition some subdivision and site plan applications may have been fully conforming to the zoning regulations and required to be approved per the **Pizzo Mantin** case. Finally, applications may have been requests for either extension of approval period or minor administrative changes to previously approved plans.

<sup>3</sup> It is noted that there were a significant number of dismissed/withdrawals which may have been due to the applicant perception that the Planning Board would not approve the application and wanted to avoid a negative vote and application of principles of “res judicata” to a subsequent revised application.

NUMBER IN R-1 ZONE	11	4	14	17
NUMBER IN R-2 ZONE	1		4	3
NUMBER IN R-3 ZONE	2		3	2
NUMBER IN HBD ZONE	3	4	2	3
NUMBER IN CBD ZONE	0		2	1
1				
NUMBER IN LI ZONE	0		0	0
1				
NUMBER IN OR ZONE	0	1	1	1
NUMBER IN SC ZONE	0		0	0
NUMBER IN MF-2 ZONE	0	0	0	0
NUMBER IN HB ZONE	1	0	0	0
NUMBER IN MR ZONE	0	1	0	0
<b><u>RELIEF SOUGHT*</u></b>				
EXTENSION OF APPROVAL	1	1	2	1
APPEAL FROM ZONING OFFICER	0	0	0	0
MAJOR SUBDIVISION	1	0	0	1
MAJOR SITE PLAN	1	3	1	7
MINOR SUBDIVISION	2	0	3	2
MINOR SITE PLAN	2	2	2	0

<b>SITE PLAN WAIVER</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>0</b>
<b>CONDITIONAL USE</b>	<b>1</b>	<b>1</b>	<b>0</b>	<b>0</b>
<b>USE VARIANCE</b>	<b>1</b>	<b>7</b>	<b>5</b>	<b>10</b>
<b>BULK VARIANCE</b>	<b>14</b>	<b>13</b>	<b>21</b>	<b>23</b>
<b>DEVIATION FROM CONDITIONS OF APPROVAL</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

**\*NOTE: APPLICATIONS MAY HAVE INVOLVED MULTIPLE RELIEF  
RESULTING IN MORE ITEMS FOR RELIEF SOUGHT THAN APPLICATIONS**

**NATURE OF APPLICATION**

<b>COMMERCIAL</b>	<b>3</b>	<b>8</b>	<b>4</b>	<b>8</b>
<b>MIXED COMMERCIAL/RESIDENTIAL</b>	<b>1</b>	<b>1</b>	<b>0</b>	<b>2</b>
<b>MULTI-FAMILY/HIGH DENSITY</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>SINGLE FAMILY RESIDENTIAL</b>	<b>12</b>	<b>10</b>	<b>17</b>	<b>19</b>
<b>NEW CONSTRUCTION</b>	<b>3</b>	<b>1</b>	<b>3</b>	<b>4</b>
<b>TEAR DOWN/REBUILD</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>0</b>
<b>ADDITION</b>	<b>6</b>	<b>12</b>	<b>7</b>	<b>11</b>
<b>APPEAL FROM ZONING OFFICER</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>INTERPRETATION OF ORDINANCE</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

**CERTIFICATION NONCONFORMING USE      0                      0                      0                      0**

**COMMENTS:**

The number of applications decreased by one (1) in 2024 and is lower than immediate prior years of 2023 and 2022 and substantially lower than 2021. The prior economic recovery has slowed and appears to have been affected by inflation. The number of applications for commercial purposes has reduced from 2023 but is consistent with fluctuating levels of years 2021, 2022 and 2023. There was one application for extension of approval which is consistent with the past several years. The percentage of approvals is 82% of total cases. Of those applications not approved two were withdrawn and one remains pending. This approval percentage remains high and is consistent with prior years. It is noted that those cases not approved were either withdrawn or are still pending. That the percentage of approvals remains high is in large part due to the boards interaction with applicants giving them feedback resulting in modifications to applications during the course of hearings resulting in their being approvable. In addition some applications were likely dismissed/withdrawn due to their decision that approval was unlikely. In some cases it may be due to applications being submitted “of right” without the need for variances. However that was not the case this year as all applications required some form of relief. A number of applications submitted required only diminimis new bulk variance approval for proposed improvements but had pre-existing nonconforming conditions. Several applications submitted were for residential home additions that required variance relief but maintained pre-existing nonconforming setbacks. In a number of cases the variances requested were minor (diminimis) in nature. However it is noted that in 2022 three of the four denials were for minor subdivision applications to create undersized lots with a significant number of bulk variances necessary. This indicates the Planning Board’s following the intent of the Master Plan not to encourage “infill lots”. It may also account for there having been no applications for subdivisions in 2023. In 2024 there were three subdivision applications all requesting bulk variances. One was withdrawn. One was granted with a majority of Board members finding that the requested variances were insubstantial and the resultant lots would be more consistent with the surrounding neighborhood and the comments of interested residents who appeared at the hearing. The third is still a pending application.

In 2024 the highest number of applications were for properties in the residential zones. R-1 (65%), R-2 (5%) and R-3 (12%). This percentage is slightly lower than prior years for the R-2 and R-3 zones and for the R-1 zone a significant increase from 2023 but consistent with prior years. Applications in the HBD zone at (18%) was consistent with prior years. There were no applications (0%) in the CBD zone which is lower than prior years. There were no applications in the MR zone which has not had activity in a number of years. There were no applications in the OR zone which is less than recent years and no applications in the LI, SC, MF-2 zones which is also consistent with recent years. There was one application in the HB zone (6%) which was withdrawn. That is consistent with prior years. There continues to be interest in constructing new and improving existing residential homes, as well as in developing commercial properties in Atlantic Highlands and is consistent with recent years.

Bulk variances continue to be the most sought approvals and were a component of 82% of the applications. This is consistent with prior years which ranged between 70% to 86%. . One application was made for increased fence height. That is consistent with recent years and indicative of the recognition that recent ordinance amendments respecting the calculation of fence height reaffirmed that the governing body intends variances from the fence height limitations to be given only sparingly and where substantial proofs have been submitted. In this case the Board was satisfied that thee were unique conditions respecting the property and surrounding propeties.

There was one major site plan application which is significantly below the seven major site plan applications in 2021 but consistent with other previous years. There were two applications for minor subdivisions which is inconsistent with 2023 but consistent with other recent years. The number of use variance applications was significantly lower than prior years. It is significant that 57% of those in prior years were for UFAR in single family homes. The applications appear to reveal a trend toward the desire of residential homeowners for more useable living space. There were no appeals from zoning officer decisions, one conditional use application and no requests for deviation from conditions of approval. This is consistent with recent years.

Single family home applications accounted for approximately 59% of all applications. All (100%) involved either home additions or replacement of existing buildings/structures. That is consistent with prior years. It is noted that ten percent (10%) of the applications for home additions also required variances for UFAR. This is a significant reduction from the forty percent (40%) in prior years. Commercial applications at 47% was consistent with 2022 and greater compared to prior years 2021 and 2023 which ranged between 20% and 30%. That may be related to current economic conditions and the overall decrease in the number of applications from prior years.

Except as set forth above there do not appear to have been any major trends experienced in 2024. Nor have there been a significant number of applications requesting relief from any specific ordinance provision creating concern for the need to consider recommendations for changes due to their adverse impacts on properties. There have been applications that raised questions that may be considered for zoning ordinance amendments that are discussed below.

## **RECOMMENDATIONS FOR ZONING ORDINANCE AMENDMENT OR REVISION**

1. **Trash Disposal Containers.** During one application it was suggested that the Governing Body may wish to review the Zoning Ordinance with respect to regulations guiding the placement and appearance of trash storage containers and to develop an improved strategy to remove what may be considered to be “eyesores”.
2. **UFAR.** In prior years there were a significant number of requests for relief from Useable Floor Area Ratio (UFAR) requirements. The Governing Body may wish to review UFAR requirements in residential zones to determine whether it is appropriate to relax UFAR requirements.
3. **Variety of Permitted Uses.** The Governing Body may wish to review the permitted uses in the business zones to determine whether a wider variety of uses may be compatible in those zones.