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August 25, 2022

Atlantic Highlands Borough Planning Board  
100 First Avenue  
Atlantic Highlands, NJ 07716

Attn: Erin Uriarte – Planning Board Secretary

**Re: Sharack (PB22-02)**  
**Subdivision Application – Bulk/Use Variance Review #4**  
**Location: 33 East Mount Avenue**  
**Zone: R-1 (Residential District)**  
**Block 91, Lot 6**  
**Borough of Atlantic Highlands, Monmouth County, NJ**  
**Our File: HAHP0091.01**

Dear Planning Board Members:

Our office received the following information in support of the above-referenced application for Minor Subdivision approval:

- Subdivision Plan for Sharack / Demaio, Lot 6, Block 91, Sheet 19, Boro of Atlantic Highlands, Monmouth County, NJ, consisting of one (1) sheet, prepared by Richard E. Stockton & Assoc., Inc., dated December 7, 2021, last revised August 17, 2022; and
- Various other application items and submission documents previously provided.

In accordance with your authorization, we have reviewed this application for Minor Subdivision with variance relief approval and offer the following comments:

1. Property Description

The subject property is a corner lot located within an R-1 Zone District and provides approximately 100 feet of lot frontage along East Mount Avenue and approximately 105 feet of lot frontage along Third Avenue. The property currently contains a 2.5-story single family residential home and ancillary improvements including but not limited to a driveway extending from Third Avenue, covered front and rear porch, detached garage, stone walls, stockade fence, and walkways. The Applicant proposes to subdivide existing Lot 6 into proposed Lots 6.01 & 6.02. No grading modifications appear to be proposed with this application. It appears that all existing site improvements on proposed Lot 6.01 are proposed to remain.

The Applicant is seeking Minor Subdivision approval with bulk and d-4 FAR variance relief relating to the existing dwelling on proposed Lot 6.01.



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## 2. Surrounding Uses

Properties surrounding the subject site are similarly zoned R-1 and contain primarily single-family residential uses, except for the Central Baptist Church which is located on adjacent Lot 5 to the south.

## 3. Zoning Compliance

The subject property is situated within an R-1 Zone District and the table below summarizes the bulk measures and zone requirements for the property:

<b>Table 1: Bulk Standards, R-1 Zone (\$150-29(A)(2) Exhibit 5-2)</b>				
<b>Standard</b>	<b>Required</b>	<b>Existing Lot 6</b>	<b>Proposed Lot 6.01</b>	<b>Proposed Lot 6.02</b>
Minimum Lot Area (sq. ft.)	7,500	10,500	5,250 (V)	5,250 (V)
Minimum Lot Frontage & Width, Corner / Interior Lot (ft.)	75 / 75	100	50 (V)	50 (V)
Minimum Lot Shape Diameter, Corner Lot (ft.)	45	65	20 (V)	N/A
Minimum Lot Shape Diameter, Interior Lot (ft.)	50	N/A	N/A	30 (V)
<b>Principal Building Setbacks</b>				
Front Yard (ft.) (East Mount Avenue)	20	11.6	11.6 (V)	TO COMPLY
Front Yard (ft.) (Third Avenue)	20	5.7	5.7 (V)	N/A
Side Yard (ft.)	10	±64	±14.2	TO COMPLY
Combined Side Yards (ft.)	20	N/A	N/A	TO COMPLY
Rear Yard (ft.)	20	±43	±43	TO COMPLY
<b>Accessory Building/ Struct. Setbacks</b>				
Side Yard (ft.)	5	±50	0.4 (V)	TO COMPLY
Rear Yard (ft.)	5	2.7	2.7 (V)	TO COMPLY
Building Coverage	25%	±16.2%	±32.2% (V)	TO COMPLY
Lot (Impervious Surface) Coverage	50%	±25.4%	±49.6%	TO COMPLY
Building Height (stories.)	2 ½	2.5	2.5	TO COMPLY
Maximum Building Height (ft.)	35	30	30	TO COMPLY
Maximum Acc. Building Height (stories.)	1	1	TBP	TO COMPLY
Maximum Acc. Building Height (ft.)	16	<16	TBP	TO COMPLY
Maximum Useable Floor Area Ratio*	0.40	0.30	0.44 (V)	TO COMPLY
Minimum Gross Floor Area, More Than 1-Story				
First Floor (sq-ft)	900	1,057	±1,057	TO COMPLY
Total Floors (sq-ft)	1,500	3,171	±3,171	TO COMPLY

(EC): Existing Condition

(V): Variance Required



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\*: Per Borough definition (§150-6) "Floor Area Ratio, Usable", 50% of the floor area of basements having a ceiling height of seven feet or greater shall be included in the useable floor area ratio. No basement floor elevation was provided on the plan but a basement appears to exist on the property based on available imagery. The Applicant has provided additional information to confirm that the ceiling height for the basement is less than seven (7) feet, therefore 50% of the floor area of the basement was not included in the FAR calculations.

4. Per the Zoning Officer's determination, relief from the following is required.
  - a) **Section 150-29.A(2)(Exhibit 5-2)** – The minimum required lot area is 7,500 square feet, whereas a lot area of 5,250 square feet is proposed for Lots 6.01 and 6.02.
  - b) **Section 150-29.A(2)(Exhibit 5-2)** – The minimum required lot frontage and width for a corner lot and interior lot is 75 feet, whereas a lot frontage and width of 50 feet is proposed for Lots 6.01 and 6.02.
  - c) **Section 150-29.A(2)(Exhibit 5-2)** – The minimum required lot shape diameter for a corner lot is 45 feet, whereas a lot shape diameter of 20 feet is proposed for Lot 6.01.
  - d) **Section 150-29.A(2)(Exhibit 5-2)** – The minimum required lot shape diameter for an interior lot is 50 feet, whereas a lot shape diameter of 30 feet is proposed for Lot 6.02.
5. It appears that the Applicant will require additional relief from the following variances with respect to this development application. Please note additional relief may be required.
  - a) **Section 150-29.A(2)(Exhibit 5-2)** – The minimum front yard setback required is 20 feet, whereas a front yard setback of 11.6 feet is proposed for Lot 6.01 along East Mount Avenue.
  - b) **Section 150-29.A(2)(Exhibit 5-2)** – The minimum front yard setback required is 20 feet, whereas a front yard setback of 5.7 feet is proposed for Lot 6.01 along Third Avenue.
  - c) **Section 150-29.A(2)(Exhibit 5-2)** – The minimum side yard setback required for an accessory building/structure is 5 feet, whereas a side yard setback of 0.4 feet is proposed to the detached garage on Lot 6.01.
  - d) **Section 150-29.A(2)(Exhibit 5-2)** – The minimum rear yard setback required for an accessory building/structure is 5 feet, whereas a rear yard setback of 2.7 feet is proposed to the detached garage on Lot 6.01.
  - e) **Section 150-29.A(2)(Exhibit 5-2)** – The maximum building coverage permitted is 25%, whereas a building coverage of approximately 32.2% is proposed for Lot 6.01.



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- f) **Section 150-29.A(2)(Exhibit 5-2)** – The maximum permitted usable floor area ratio is 0.40, whereas a usable floor area ratio of 0.44 is proposed for Lot 6.01. This would require a d(4) FAR variance.
  - g) **Section 150-49.I(1)(b)** – A nonconforming lot may not be used for any purpose unless the lot conforms to the minimum lot area requirement of this chapter.
  - h) **Section 150-49.I(1)(c)** – A nonconforming lot may not be used for any purpose unless other than minimum lot area, the lot conformed to the zoning standards in effect immediately prior to the adoption of this chapter.
  - i) **Section 150-54.F** – Within a residential zone district, an entry driveway or a walkway may cross any yard area except that no driveway shall be within five (5) feet of a side lot line or a rear lot line; the existing driveway on Lot 6.01 proposed to remain is approximately three (3) feet from the rear property line.
  - j) **Section 150-89.D(1)** – No driveway shall be less than 12 feet in width, whereas a portion of the existing driveway on Lot 6.01, which is proposed to remain, has a width of approximately 10 feet.
6. As stated in our previous report, the Applicant has requested several submission waivers at this time. No additional information has been provided on the revised plans and the following additional waivers still appear necessary:
- a) Section G. Roads, Driveways, Walks, Curbs, Walkways & Fencing Item #5 – Location and type of utilities: electric, cable, TV, gas, telephone, water. Underground lines, present and proposed connections or extensions.

As indicated in our previous reports, this application has been deemed **COMPLETE**,

7. The Applicant should be prepared to discuss the following issues with the Board:
- a) The Variance Application and Minor Subdivision Plat Application indicate that the Applicant is Beth Sharack. However, the Minor Subdivision Plan indicates that the Owner / Applicant is Beth Sharack / John Demaio. Clarification is required.
  - b) Reasons supporting the granting of the requested/required minor subdivision approval, 'd' variance relief, bulk variance relief, and/or design waivers.
  - c) The application requires "d(4)" variance relief pursuant to N.J.S.A. 40:55D-70(d)(4) for an increase in the permitted floor area ratio within the R-1 Zone District. The Applicant or their professionals shall be prepared to provide testimony regarding the following proofs:
    - i. Positive Criteria



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1. There must be special reasons to grant the variance. This means that the proposed deviation to exceed the maximum FAR requirements would advance the purposes of zoning as spelled out in the Municipal Land Use Law, and that this site is particularly suited to allow for the construction of homes of this size.
- ii. Negative Criteria
  1. That the variance can be granted without substantial detriment to the public good. This requires an evaluation of the impact(s) associated with the granting of the proposed variance relief on surrounding properties and a determination as to whether or not it causes such damage to the character of the neighborhood as to constitute a substantial detriment to the public good.
  2. That the variance will not substantially impair the intent and purpose of the zoning plan and Municipal Ordinance.
- d) For a d(4) FAR variance, the focus of the Board's consideration should be on the deviation from the FAR requirements. Although this is a 'd' variance, it is not a traditional use variance. The Applicant does not need to demonstrate that this site is particularly suited for development with residences, as single-family homes are permitted. The Applicant must demonstrate that the site can reasonably accommodate any problems that might arise from allowing construction of homes larger than is otherwise permitted. The application of the positive and negative criteria for this variance should be on the additional floor area proposed and how that impacts the public good and the intent of the zoning plan.
- e) The intent of any floor area ratio maximum in a residential context is to limit the bulk and massing of proposed buildings relative to the size of their lot in order to ensure that new construction is generally consistent with the scale and character of the existing community, and does not 'dwarf' its neighbors. The Applicant should provide testimony addressing how the existing home would fit into the context of the surrounding neighborhood in terms of the size of the building, height, and spacing between adjacent homes.
- f) With a maximum permitted FAR in the R-1 district, and a minimum lot area requirement of 7,500 square feet, the intent of the district is to permit homes no larger than 3,000 square feet, unless they are situated on larger properties. In this case, the maximum permitted usable floor area of each proposed lot would be 2,100 square feet.
- g) ~~No architectural drawings have been provided for review. Renderings and/or elevation drawings of the proposed new home would be helpful for the Board to determine how the new home would fit into the neighborhood context. Without architectural drawings to illustrate the visual impact of a new home that will exceed the maximum permitted FAR, it is difficult to understand what the specific impacts would be.~~ **New home on proposed lot 6.02 has been removed from the application.**
- h) The Applicant should discuss proposed demolition work, specifically the existing fencing on Lot 6.02. No demolition was shown on the submitted plan relating to same and it is unclear



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whether the existing fence will remain and be relocated, or a new fence will be installed along the proposed lot line. Regardless of which option is chosen, the Applicant is responsible to comply with all applicable requirements outlined in §150.70 (Fences and Walls) of the Borough Ordinance.

- i) The Applicant should provide site photos depicting existing conditions.
- j) The Applicant shall confirm the Tax Assessor's office has approved the proposed lot numbers.
- k) The height of the existing detached garage should be provided, and any additional variance relief required relating to same should be identified.
- l) Any landscaping work including buffers, proposed plantings, and tree removal, including effects on adjacent properties. We note that two (2) trees exist on proposed Lot 6.02. Applicant should depict these trees on the plans and indicate whether they will remain or be removed.
- m) We note two (2) street trees are proposed between the curb and sidewalk along East Mount Avenue in front of Lot 6.01, one of which is proposed on a stormwater inlet. Applicant should discuss relocation of street trees and consider planting behind the sidewalk.
- n) Number of bedrooms in the existing and proposed conditions.
- o) Applicant should demonstrate conformance with Borough and RSIS parking requirements for the existing lot. No architectural plans have been provided, so our office cannot determine the parking spaces requirements (which is based on the number of bedrooms). We note that a minimum of 2.5 parking spaces shall be provided for each dwelling unit when the number of bedrooms is not specified.
- p) Applicant should discuss surface runoff from proposed Lot 6.02, and address concentration of flows and effects on adjacent properties and municipal infrastructure. We recommend a grading plan be required for review and approval at such time that the property owner of Lot 6.02 requests to construct a new dwelling. Same should be included as a condition of subdivision approval, if granted.
- q) The Subdivision Plan appears to depict a utility pole at the existing driveway opening for Lot 6.01 and may interfere with driveway access. Applicant should discuss usability and capacity of said driveway.
- r) Based upon available imagery, it appears that the driveway and sidewalk along Lot 6.01 contain pavement / concrete cracking. The Applicant should discuss the need of providing new sidewalk and pavement within these areas.
- s) ~~The Applicant should provide testimony and/or exhibits to address the appearance of the proposed dwelling and confirm that the dwelling will comply with the applicable zoning requirements for maximum height and number of stories.~~ **New dwelling on proposed lot 6.02 has been removed from the application.**



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- t) The Applicant should discuss conformity with the neighborhood aesthetic, including lot size, layout, and architecture. Applicant to discuss status of architectural plans for proposed buildings.
- u) The Applicant shall clarify if they intend to file the minor subdivision by deed or by map.
- v) Clarify whether there are any existing sight triangle easements in connection with the existing corner lot and the need/feasibility of providing a sight triangle easement.
- w) The Applicant shall be responsible for complying with all applicable requirements outlined in §163 (Excavations) of the Borough of Atlantic Highlands municipal code.
- x) The Applicant should discuss compliance with all applicable requirements outlined in §150-89 (Improvement Standards) of the Borough of Atlantic Highlands municipal code.
- y) Applicant shall post performance guarantee for improvements within the Borough right-of-way (§150-52).
- z) The Applicant remains responsible for confirming any and all revised plans submitted to the Board for review are properly signed and sealed.
- aa) General note #5 includes a building height of +/-30 feet for proposed Lot 6.02 where no dwelling is being proposed. Applicant should confirm no dwelling is proposed and plan should be revised for consistency.
- bb) The signature block should be revised to include a space for the Board Engineer's signature.

The right is reserved to present additional comments pending the receipt of revised Plans and/or testimony of the Applicant before the Board.

If you have any questions with regard to the above matter, please do not hesitate to call.

Very truly yours,

**CME Associates**

*For Public Use:*  
Douglas M. Rohmeyer, PE, CME, CFM  
Planning Board Engineer

DMR/DEP/dol

cc: Robert Ferragina – Borough Administrator  
Michael B. Steib, Esq. – Board Attorney  
Michelle Clark – Zoning Officer  
Beth Sharack – Applicant  
Ronald L. Trinidad, PLS – Applicant's Land Surveyor