



BOROUGH OF HIGHLANDS
COUNTY OF MONMOUTH

LAND USE BOARD RESOLUTION 2025-14

MEMORIALIZATION OF BULK VARIANCE RELIEF

IN THE MATTER OF JOHN AND SHARI NASTASI
APPLICATION NO. LUB2025-03

Approved: April 10, 2025
Memorialized: May 8, 2025

WHEREAS, an application for bulk variance relief has been made to the Borough of Highlands Land Use Board (hereinafter referred to as the "Board") by John and Shari Nastasi (hereinafter referred to as the "Applicants") on lands known and designated as Block 100, Lot 26.19 (C00011), as depicted on the Tax Map of the Borough of Highlands (hereinafter "Borough"), and more commonly known as 19 Gravelly Point Road, Highlands, New Jersey, in the Bungalow Colonies area of the R-2.03 Single-Family Residential (R-2.03) Zone District (hereinafter "Property"); and

WHEREAS, a live public hearing was held before the Board on April 10, 2025, with regard to this application; and

WHEREAS, the Board has heard testimony and comments from the Applicant, witnesses and consultants, and with the public having had an opportunity to be heard; and

WHEREAS, a complete application has been filed, the fees as required by Borough Ordinance have been paid, and it otherwise appears that the jurisdiction and powers of the Board have been properly invoked and exercised.

NOW, THEREFORE, does the Highlands Land Use Board make the following findings of fact and conclusions of law with regard to this application:

1. The subject Property is an existing undersized lot containing 2,758.25 square feet (0.06 acres) with 50.15 feet of frontage along Gravelly Point Road within the Bungalow Colonies area of the R-2.03 Single-Family Residential (R-2.03) Zone District. The subject Property is located within the AE Flood Hazard Area.
2. The subject Property is currently improved with an existing, elevated two-story frame dwelling with existing garage under parking, with an elevated addition with garage under parking, decking, and stairs.

3. The Applicants previously applied for and, on August 8, 2024, received approval from the Board, which approval was memorialized on September 12, 2024 in Resolution No. 2024-17, to construct a three-story dwelling in place of the existing elevated two-story frame dwelling. No variance relief was sought for a proposed second-floor deck and the approved plans did not reflect a second-floor deck.
4. Resolution No. 2024-17 granted the Applicants bulk variance relief for the location of certain accessory structures, lot size, lot depth, and rear yard setbacks, along with height variance relief for the proposed single-family dwelling.
5. The Applicants subsequently applied for a Zoning Permit to construct the proposed dwelling on the subject Property, which submitted plans proposed a second-floor deck.
6. The Borough Zoning Official, Courtney Lopez, issued a Denial of Zoning Permit, dated February 10, 2025, which denied the Applicant's request for a zoning permit for the following reasons:
 - a. The location of the front portion of the proposed deck is not equivalent to the prior location of the former deck. The proposed deck is much larger, approximately 230% longer than the former deck. The proposed deck extends the entire front of the existing and proposed addition and further along the front of the lot.
 - b. The proposed building is not consistent with the approved plan set. The right side of the proposed dwelling is different and larger. The image plan does not match the first or second floor plans.
 - c. The first-floor plan, shown within the approved plans, indicates a deck above the garage addition. The plan submitted to the zoning office is not consistent with the approved plan.
 - d. Dimensions are needed on the plan submitted to the zoning office to confirm that the proposed building and deck are consistent with the approved plan and meet the setback requirements.
 - e. The plan submitted to the board used the existing foundation for the new house. The plans submitted to zoning have a larger footprint, but the dimensions are not clear enough to determine how close the proposed building is to the property lines.
7. The Applicants are now seeking variance relief from the requirements of §21-86.A.4.b(2)(a) to construct a second-floor deck along the frontage of the proposed dwelling.

8. The Applicant's Architect, John Nastasi, AIA, was sworn in and testified about the application.
9. Mr. Nastasi identified the subject Property as Block 100, Lot 26.19, with the address of 19 Gravelly Point Road, Highlands, New Jersey, and located within the Bungalow Colonies area of the R-2.03 Single-Family Residential (R-2.03) Zone District.
10. Mr. Nastasi testified that the Applicants were here seeking approval to construct a second-floor deck because the previously approved plans (in Resolution No. 2024-17), did not include a proposed second floor deck as the Applicants had desired.
11. Mr. Nastasi testified that the existing, but since removed, second floor deck was approximately 9 ft x 17 ft in size, whereas the proposed deck extends the full width of the house and around a portion of the side, measuring 9 ft x 39.5 ft., which deck would be approximately 230% larger than the former deck (since removed) as determined by the existing survey.
12. Mr. Nastasi provided additional testimony that the proposed deck would be more functional and practical than what existed previously.
13. Mr. Nastasi provided additional testimony that the deck could not be located on the rear of the home, and other than seeking relief to construct the deck, none of what is proposed is more than what was previously approved and is permitted.
14. In response to questions from the Board Engineer, Mr. Nastasi confirmed that the submitted plans shifted the proposed dwelling closer to the Borough right of way, but also reduced the footprint of the proposed dwelling.
15. Mr. Nastasi confirmed the need for variance relief from §21-86.A.4.b(2)(a) of the Borough Code, which relates to certain properties located in the Bungalow Colonies and provides, in pertinent part, that "decks attached to the front of the dwellings situated in Block 100, Lots 26.01-26.76 and Block 69, Lots 15.01-15.28, . . . may extend to locations equivalent to those which existed prior to elevation or reconstruction as determined by prior property surveys conducted by a licensed surveyor."
16. Mr. Nastasi opined that the proposed second-floor deck would be similar to the decks of other houses on the street which had been constructed, renovated and/or lifted. He, therefore, believed that the proposed deck and proposed dwelling (as a whole) would conform with the

surrounding area. He also stated that the proposal would not impair the zone or the public good.

17. There were no members of the public expressing an interest in this application.

WHEREAS, the Highlands Land Use Board, having reviewed the proposed application and having considered the impact of the proposed application on the Borough and its residents to determine whether it is in furtherance of the Municipal Land Use Law; and having considered whether the proposal is conducive to the orderly development of the site and the general area in which it is located pursuant to the land use and zoning ordinances of the Borough of Highlands; and upon the imposition of specific conditions to be fulfilled, hereby determines that the Applicants should be granted bulk variance relief pursuant to both N.J.S.A. 40:55D-70c(1) and c(2) in this instance.

The Board finds that the Applicants have proposed constructing a second-floor deck, which requires bulk variance relief. The Municipal Land Use Law, at N.J.S.A. 40:55D-70c provides Boards with the power to grant variances from strict bulk and other non-use related issues when the Applicant satisfies certain specific proofs which are enunciated in the Statute. Specifically, the Applicant may be entitled to relief if the specific parcel is limited by exceptional narrowness, shallowness or shape. An Applicant may show that exceptional topographic conditions or physical features exist uniquely affect a specific piece of property. Further, the Applicant may also supply evidence that exceptional or extraordinary circumstances exist which uniquely affect a specific piece of property or any structure lawfully existing thereon and the strict application of any regulation contained in the Zoning Ordinance would result in a peculiar and exceptional practical difficulty or exceptional and undue hardship upon the developer of that property. Additionally, under the “c(2)” criteria, the Applicant has the option of showing that in a particular instance relating to a specific piece of property, the purpose of the Act would be advanced by allowing a deviation from the Zoning Ordinance requirements and the benefits of any deviation will substantially outweigh any detriment. In those instances, a variance may be granted to allow departure from regulations adopted, pursuant to the Zoning Ordinance.

Those categories specifically enumerated above constitute the affirmative proofs

necessary in order to obtain “bulk” or (c) variance relief. Finally, the Applicant must also show that the proposed variance relief sought will not have a substantial detriment to the public good and, further, will not substantially impair the intent and purpose of the Zone Plan and Zoning Ordinance. It is only in those instances when the Applicant has satisfied both these tests that a Board, acting pursuant to the Statute and case law, can grant relief. The burden of proof is upon the Applicant to establish these criteria.

The Board finds that the Applicants have satisfied the positive criteria. The Board finds that the proposed second-floor deck will upgrade the proposed residential structure and will be consistent with neighboring development. The Board further finds that the proposed deck will be aesthetically pleasing and create a desirable visual environment which will be commensurate with other homes in the neighborhood. The Board further finds that the subject Property is unique and unusual with respect to its dimensions. Ultimately, the Board finds that the grant of variance relief will result in a visually desirable dwelling which will not only benefit the Applicant but will also advance the interests of the entire community. The Board therefore concludes that the goals of planning as enumerated in N.J.S.A. 40:55D-2 have been advanced. The Applicants have therefore satisfied the positive criteria.

The Board also finds that the negative criteria has been satisfied. The proposed deck requiring variance relief will not cause a detriment to the community in any discernible way. In fact, the Board finds that proposed deck will still be consistent and fit in seamlessly with the prevailing neighborhood residential scheme. The proposal is consistent with the Borough’s overall goals and objectives of providing new, safe and visually attractive homes and will advance the general welfare for both the Applicants and the neighbors alike. Granting of the variance sought by the Applicants will also not result in any substantial detriment to the public welfare or impair the purpose or intent of the Zone Plan or Zoning Ordinance. The Board therefore concludes that the negative criteria has therefore been satisfied pursuant to N.J.S.A. 40:55D-70c(2).

It bears mentioning that the Applicants previously applied for and received approval to construct a three-story residential dwelling in place of the existing two-story dwelling, which approval was memorialized in Resolution No. 2024-17 and granted the Applicants bulk variance

relief for the location of certain accessory structures, lot size, lot depth, and rear yard setbacks, along with height variance relief for a single-family dwelling. At that time, the Applicants did not apply for a variance with respect to the second-floor deck and there was no consideration of the deck or any construction of the same before the Board at that time. Accordingly, the within application and resolution relate to Resolution No. 2024-17 but do not amend the same.

The Board concludes that the positive criteria substantially outweighs the negative criteria and that bulk variance relief may be granted pursuant to N.J.S.A. 40:55D-70c(2).

NOW, THEREFORE, BE IT RESOLVED by the Borough of Highlands Land Use Board on this 8th day of May 2025, that the action of the Board taken on April 10, 2025, granting application no. LUB 2024-04 of John and Shari Nastasi for bulk variance relief pursuant to N.J.S.A. 40:55D-70c(1) and “c(2)” and height variance relief pursuant to N.J.S.A. 40:55D-70d(6) is hereby memorialized as follows:

The application is granted subject to the following conditions:

1. All site improvement shall take place in strict compliance with the testimony and with the plans and drawings which have been submitted to the Board with this application, or to be revised.
2. Except where specifically modified by the terms of this Resolution, the Applicants shall comply with all recommendations contained in the Reports of the Board’s Professionals.
3. The Applicants shall apply for all necessary Zoning Permit(s).
4. Any ambiguities regarding the interpretation of this Resolution related to major site plan modifications shall be resolved by the Land Use Board upon due notice to the public.
5. The Applicants shall provide a certificate that taxes are paid to date of approval.
6. This approval is subject to the Applicants’ continuing payment of all fees, costs, escrows due or to become due. Any monies are to be paid within twenty (20) days of said request by the Board Secretary.
7. Prior to the issuance of building permits, the Applicant shall be responsible for obtaining any other approvals or permits from other governmental agencies, as may be required by law, including all applicable Federal, State, County, and Municipal regulations.
8. Subject to all other applicable rules, regulations, ordinances and statutes of the Borough of Highlands, County of Monmouth, State of New Jersey, or any other jurisdiction.

BE IT FURTHER RESOLVED that the Board secretary is hereby authorized and directed to cause a notice of this decision to be published in the official newspaper at the Applicants' expense and to send a certified copy of this Resolution to the Applicants and to the Borough Clerk, Engineer, Attorney and Tax Assessor, and shall make same available to all other interested parties.

Robert Knox, Chairman
Borough of Highlands Land Use Board

ON MOTION OF:
SECONDED BY:
ROLL CALL:
YES:
NO:
ABSTAINED:
INELIGIBLE:
ABSENT:
DATED:

I hereby certify this to be a true and accurate copy of the Resolution adopted by the Borough of Highlands Land Use Board, Monmouth County, New Jersey, at a public meeting held on May 8, 2025.

Nancy Tran, Secretary
Borough of Highlands Land Use
Board

BOROUGH OF HIGHLANDS LAND USE BOARD
Case No. LUB24-05/Nastasi
Bulk Variance Relief
April 10, 2025

EXHIBITS

A-1 Images of Site (3 sheets)

INTEROFFICE REPORTS

B-1 Board Engineer's Completeness Review, dated July 11, 2024 (Completeness Review No. 1)

B-2 Board Engineer's Completeness Review, dated April 1, 2025 (Completeness Review No. 2)¹

¹ Identified as Completeness Review No. 1 on the document, however.