



**BOROUGH OF HIGHLANDS
COUNTY OF MONMOUTH**

LAND USE BOARD RESOLUTION 2026-20
MEMORIALIZATION OF BULK VARIANCE RELIEF WITH DESIGN WAIVERS

**IN THE MATTER OF DANIELLE DUNN & JUSTIN MELE
APPLICATION NO. LUB2026-01**

**Approved: July 9, 2026
Memorialized: August 13, 2026**

WHEREAS, an application for bulk variance relief with a design waiver has been made to the Borough of Highlands Land Use Board (hereinafter referred to as the "Board") by Danielle Dunn and Justin Mele (hereinafter referred to as the "Applicants") on lands known and designated as Block 76, Lot 9, as depicted on the Tax Map of the Borough of Highlands (hereinafter "Borough"), and more commonly known as 26 Seadrift Avenue, Highlands, New Jersey, in the R-2.01 Residential (R-2.01) Zone District (hereinafter "Property"); and

WHEREAS, a live public hearing was held before the Board on July 9, 2026, 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 undersized 2,333-sf lot located in the R-2.01 Zone, improved with a three-story, single-family dwelling.
2. The subject Property is located on the northwest side of Seadrift Avenue within

the AE (Elevation 11) Flood Hazard Area Zone.

3. The Applicants propose constructing an in-ground swimming pool, a patio, and associated pool equipment, including a filtration system, on the subject Property.

4. The Applicants received a Denial of Zoning Permit on January 20, 2026, for non-compliance with the Zone's bulk requirements and, therefore, require Land Use Board approval.

5. The Applicants require six (6) bulk variances and one (1) design waiver. Five (5) of the requested variances relate to existing non-conforming conditions currently affecting the subject Property, while one (1) additional bulk variance is associated with the proposed improvements. In addition, the Applicants seek one (1) design waiver related to the non-conforming swimming pool setback.

6. The nature and extent of the six (6) bulk variances and one (1) design waiver is as follows:

Schedule I – Bulk and Area Requirements				
R-2.01 Single Family Residential District				
	Required	Existing	Proposed	Variance
Min. Lot Area (sf)	3,750	2,333 ⁽¹⁾	2,333 ⁽¹⁾	Yes
Lot Frontage/Width (ft)	50	33.33 ⁽¹⁾	33.33 ⁽¹⁾	Yes
Lot Depth (ft)	75	70 ⁽¹⁾	70 ⁽¹⁾	Yes
Min. Front Yard Setback (ft)	20	9.5 ⁽¹⁾	9.5 ⁽¹⁾	Yes
Min. Side Yard Setback (ft)	6/8	1.7 ⁽¹⁾	1.7 ⁽¹⁾	Yes
Min. Rear Yard Setback (ft)	20	18.4	18.4	No
Max. Building Height (ft)	30	< 30	< 30	No
Max. Lot Coverage (%)	75	57.2	84.5	Yes
Max. Building Coverage (%)	33	32.7	32.7	No
Swimming Pool Setback (ft) ⁽²⁾	6	N/A	3 (side) 4 (rear)(confirm)	Design Waiver

(1) Existing non-conformity.

(2) Design Waiver from § 10-8.4, 'Locations,' of the Borough Ordinances.

7. Gary Chiang, a licensed professional engineer and the Applicant's Professional, was sworn in and testified about the application.

8. Danielle Dunn and Justin Mele, the owners of the subject Property and Applicant,

were sworn in and testified about the application.

9. After the Applicants and their professional were sworn in, the Board Engineer provided testimony concerning the overall application and the requested relief, reviewed his most recent Completeness Review Letter and testified concerning the contents thereof.

10. The Board Engineer continued testifying concerning the required Development Checklist items and the outstanding items that had not yet been addressed by the Applicants.

11. The Board Engineer testified that Checklist Item No. 9, identified in the Completeness Review Letter, requiring the Applicants to provide a provide a detailed statement or deed indicating that no protective covenants, deeds restrictions, or easements apply to the subject site, had not yet been satisfied but that the Applicant's Engineer confirmed that they would do so as a condition of approval.

12. The Board Engineer further testified that Checklist Item No. 12, requiring compliance with NJDEP Flood Hazard Area regulations and requiring the applicant to provide proof of application or confirmation that no permit is needed, had not yet been satisfied.

13. In response, the Applicant's Engineer confirmed that the Applicants would satisfy Checklist Item No. 12 as a condition of approval and that he believed a permit by registration (no. 12) was required. The Board Engineer agreed.

14. The Board Engineer provided further testimony that Checklist Item No. 14, which was identified as "outstanding" in the Completeness Review Letter had been satisfied by the Applicants based upon the submission of Exhibit A-1 but that it would remain as a condition of approval, to be included in plans submitted for approval.

15. After the Board Engineer completed testifying, Mr. Chiang submitted a Plan set entitled, "Swimming Pool Grading Plan", prepared by MGC Associates, dated December 1, 2025, last

revised July 8, 2026, consisting of 1 sheet, which was marked as Exhibit “A-1.”

16. Mr. Chiang provided testimony concerning the application and testified that the Applicants proposed installing an in-ground pool, related pool equipment, and a patio in the rear of the subject Property.

17. Mr. Chaing further testified that the proposed patio would be located between the pool and dwelling.

18. Mr. Chiang continued testifying that the plans had been revised and that the Applicants now proposed using porous pavers for the patio, to prevent water runoff and eliminate any negative impact to the neighboring properties.

19. Mr. Chiang provided additional testimony that the Applicants further proposed installing a trench around the rear of the property, between the neighboring side and rear yard properties, to further allow water runoff to be captured prior to impacting the neighboring properties. Mr. Chiang continued that the proposed trenches would take water out to the roadway.

20. Mr. Chiang continued with testimony that although the proposed pool was treated as impervious coverage, the design of the pool allows some water to be captured, prior to runoff.

21. Mr. Chiang summarized the relief requested and testified that some of variances and/or design waivers were necessitated by the size and shape of the undersized lot, and that installing a pool and/or patio would necessarily require some form of relief.

22. Mr. Chiang continued with testimony that if the subject Property was not undersized, they would not need the variance for lot coverage. Accordingly, the requested relief is driven by the nature of the subject Property.

23. In response to questions from the Board Engineer, Mr. Chaing testified that the grading of the subject Property is relatively flat, with elevations between four (4) feet and four and

one-half (4 ½) feet, with little to no elevation change.

24. In response to further questions from the Board Engineer, Mr. Chiang, confirmed through testimony that the proposed improvements would have a *de minimis* impact on stormwater, with only the pool impacting the impervious coverage.

25. The Board Engineer further inquired how the proposed improvements would be constructed.

26. In response, the Applicants (Ms. Dunn) testified that the neighboring property owner of Block 76, Lot 8 had agreed (verbally) to allow the Applicants to remove the fence bordering the properties and to utilize Block 76, Lot 8 for construction equipment to construct the proposal. Ms. Dunn further testified that the Applicants would re-erect the fence at the conclusion of the construction.

27. As a condition of approval, the Applicants agreed to enter into a construction easement or temporary access agreement, documenting and confirming that the Applicants and the property owner of Block 76, Lot 8 agreed to allow the Applicants to utilize the neighboring property to construct the proposed pool, patio, and associated improvements, and re-erect the fence.

28. The Board Attorney inquired whether the survey, from 2017, was accurate and reflected current conditions.

29. In response, the Applicants (Ms. Dunn) testified that the survey was accurate and reflected current conditions except for additional trees that had been planted on the Property.

30. In conclusion, Mr. Chiang provided testimony that the application advances the purposes of the Municipal Land Use Law, testifying that the proposal would improve the aesthetics of the Property and, thus, the surrounding neighborhood as a whole, while fitting into the zoning scheme, with no substantial negative impact to the same.

31. 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), along with design waiver relief pursuant to N.J.S.A. 40:55D-51, in this instance.

The Board finds that the Applicants have proposed constructing an in-ground swimming pool, a patio, and associated pool equipment, including a filtration system, on the subject Property, which requires bulk variance relief and design waiver(s). 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 Applicants satisfy certain specific proofs which are enunciated in the Statute. Specifically, the Applicants 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 in-ground pool, patio and associated pool equipment will be consistent with neighboring development. The Board further finds that the pool and patio will be aesthetically pleasing, provide adequate light, air and open space, 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, in that it is undersized, which drives the nature of some of the relief requested. Ultimately, the Board finds that the grant of variance relief will result in a visually desirable dwelling which will not only benefit the Applicants 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 pool and

patio requiring variance relief will not cause a detriment to the community in any discernible way. In fact, the Board finds that improvements will still be consistent and fit in seamlessly with the prevailing neighborhood residential scheme. With respect to the variance for lot coverage, the Board finds that the Applicants have demonstrated that stormwater and runoff will be effectively captured and will not negatively impact the neighboring properties. Additionally, five (5) of the variances are existing non-conformities that have existed for a period of time and which have not negatively impacted the community. Accordingly, variances for the same are appropriate and 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 further finds that due to the exceptionally narrow and shallow nature of the subject Property, the Applicants will need to access and utilize the property located at Block 76, Lot 8, which is the adjoining property, during construction. Without accessing the neighboring property, construction of the proposed improvements would be difficult. To that end, the Applicants will enter into an agreement with the property owner of Block 76, Lot 8, which agreement shall permit the Applicants to access and utilize the neighboring property during construction, and require them to re-construct the fence between the properties (assuming it has been removed during construction). The Board therefore concludes that the negative criteria has therefore been satisfied pursuant to N.J.S.A. 40:55D-70c(2).

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).

The proposal also requires design waiver relief for the swimming pool setbacks. The MLUL permits site plan design exceptions pursuant to N.J.S.A. 40:55D-51(b). The statute permits the Board to grant a deviation from the requirements for site plan approval if (1) doing so is “reasonable”, (2) within the general purpose and intent of the provisions for site plan review and approval of an ordinance adopted pursuant to Article 4 of the MLUL; and (3) if the literal enforcement of one or more provisions of the ordinance is impracticable or will exact undue hardship because of peculiar conditions pertaining to the land in question.

Based on the testimony provided, the Board has determined that the design the waiver, for the location of the proposed in-ground swimming pool may be reasonably granted because it presents a better planning alternative and safer design overall, and will exist in an appropriate location with respect to the subject Property. To that end, as a result of the undersized nature of the subject Property, the location of the pool would require some form of relief, regardless of where it is located. The proposed location is the most appropriate. For the foregoing reasons, the Board therefore finds that it is appropriate to grant design waiver relief pursuant to N.J.S.A. 40:55D-51.

NOW, THEREFORE, BE IT RESOLVED by the Borough of Highlands Land Use Board on this 13th day of August 2025, that the action of the Board taken on July 9, 2026, granting application no. LUB 2026-01 of Danielle Dunn and Justin Mele for bulk variance relief pursuant to N.J.S.A. 40:55D-70c(1) and “c(2)” and design waiver relief pursuant to N.J.S.A. 40:55D-51 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. The Applicants shall supply a detailed statement or deed indicating that no protective covenants, deed restrictions, or easements apply to the subject Property.
5. The property is in an AE (Elevation 11) Flood Hazard Area Zone. Compliance with NJDEP Flood Hazard Area regulations is required and the Applicants shall provide proof of application or confirmation that no permit is needed.
6. The Applicants shall obtain written authorization, as a construction easement, temporary access agreement, or otherwise from the property owner of Block 76, Lot 8, for the Applicants to access and utilize Block 76, Lot 8 during construction of the in-ground pool, patio, and related improvements, and requiring the Applicants to re-erect the fence (if it is removed during construction). The written authorization shall be subject to review and approval by the Board Attorney. Failure to obtain the required written authorization shall require the Applicants to seek further relief from the Land Use Board with respect to the same.
7. The Applicants shall comply with any Checklist Items and General Comments, not yet completed.
8. 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.
9. The Applicants shall provide a certificate that taxes are paid to date of approval.
10. 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.
11. Prior to the issuance of building permits, the Applicants 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.
12. 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 Applicant's 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 August 13, 2026.

Kate Romoser, Secretary
Borough of Highlands Land Use Board

BOROUGH OF HIGHLANDS LAND USE BOARD

Case No. LUB26-01/Dunn

Bulk Variance Relief

July 9, 2026

APPLICATION DOCUMENTS

- Land Use Board Application for Variance, dated February 24, 2026.
- Land Use Board Development Completeness Checklist, signed and dated February 20, 2026.
- Denial of Zoning Permit issued on January 20, 2026, by the Borough of Highlands Zoning Official, Courtney Lopez.
- Plan set entitled, "Swimming Pool Grading Plan", prepared by MGC Associates, dated December 1, 2025, last revised April 27, 2026, consisting of 1 sheet.
- Survey for 26 Seadrift Avenue, prepared by DPCSS Land Surveyors, dated December 7, 2017.
- Two (2) photographs depicting existing conditions at the subject property.

EXHIBITS

A-1 Plan set entitled, "Swimming Pool Grading Plan", prepared by MGC Associates, dated December 1, 2025, last revised July 8, 2026, consisting of 1 sheet.

INTEROFFICE REPORTS

B-1 Board Engineer's Completeness Review, dated April 15, 2026 (Completeness Review No. 1)

B-2 Board Engineer's Completeness Review, dated May 19, 2026 (Completeness Review No. 2)