

RESOLUTION GRANTING WAIVERS FROM
N.J.A.C. 5:97- 8.1(d) and N.J.A.C. 5:97-8.7(a)

Denville Township, Morris County

COAH DOCKET #10-2213

WHEREAS, Denville Township (“Denville” or “the Township”), Morris County, received first round substantive certification of its Housing Element and Fair Share Plan from the Council on Affordable Housing (COAH) on August 2, 2000, second round substantive certification on August 7, 1996, and amended second round substantive certification on November 7, 2001; and

WHEREAS, the Township received approval of the original development fee ordinance from COAH on February 7, 2001, and on February 5, 2010, COAH approved an amended development fee ordinance for the Township; and

WHEREAS, Denville Township is a Highlands community and, per the Highlands Memorandum of Understanding (MOU), the deadline for submitting a third round petition has been extended by COAH to June 8, 2010; and

WHEREAS, on March 15, 2010, Denville Township submitted to COAH a request for a waiver from the requirements of N.J.A.C. 5:97-8.1(d); and

WHEREAS, an additional waiver is required from, N.J.A.C. 5:97-8.7(a); and

WHEREAS, N.J.A.C. 5:97-8.1(d) mandates that a municipality may not spend development fees until such time as the municipality obtains approval of its spending plan from COAH; and

WHEREAS, N.J.A.C. 5:97-8.7(a) provides that funds generated by the collection of development fees may only be applied toward housing activity identified in a COAH approved spending plan; and

WHEREAS, Denville proposes to utilize \$253,000 in funds that are currently on deposit in the Township’s Affordable Housing Trust Fund to assist with construction costs and permit fees for the construction of Peer Place, a six-unit low- and moderate-income townhouse development; and

WHEREAS, according to COAH's monitoring records, as of December 31, 2009, Denville Township's Affordable Housing Trust Fund Account had a balance of \$1,196,298.85; and

WHEREAS, the Peer Place townhouse development is an emergent affordable housing opportunity that can move forward with the use of trust fund money; and

WHEREAS, the Peer Place development will be constructed by Morris Habitat for Humanity for the Morris County Affordable Housing Corporation; and

WHEREAS, the project is located in the AH Affordable Housing District; and

WHEREAS, the project received site plan approval from the Denville Planning Board on August 13, 2008; and

WHEREAS, the waivers requested are necessary because Denville is a Highlands community and has not yet submitted its third round housing element and fair share plan or a new spending plan to COAH, and the Township wishes to spend affordable housing trust funds on an emergent affordable housing opportunity; and

WHEREAS, pursuant to N.J.A.C. 5:96-15.2, COAH may grant a waiver from specific provisions of its rules if it is demonstrated that strict application of the rules would impose an unnecessary financial, environmental or other hardship; or 1) The waiver would foster the production of affordable housing; 2) The waiver would foster the intent, if not the letter of COAH's rules; and 3) The Housing Element and Fair Share Plan provide a mix of housing options; and

WHEREAS, granting the waivers requested would foster the production of affordable housing and would serve the intent of COAH's rules by enabling Denville to take advantage of an emergent affordable housing opportunity; and

WHEREAS, based on a preliminary review, COAH staff finds that the project presents a realistic opportunity to create six affordable housing units in Denville; and

WHEREAS, COAH received no opposition papers to the Township's waiver request; and

WHEREAS, the Denville waiver requests were considered by a COAH Task Force on May 3, 2010; and

WHEREAS, the Task Force recommends that the waiver requests by Denville be granted, finding that the Township has met the waiver requirements of N.J.A.C. 5:96-15.2 by demonstrating that granting the waivers of N.J.A.C. 5:97-8.1(d) and N.J.A.C. 5:97-8.7(a) would foster the production of affordable housing and serve the intent of the COAH rules by enabling Denville to take advantage of an emergent affordable housing opportunity in the Township.

NOW THEREFORE BE IT RESOLVED that COAH grants the waivers from N.J.A.C. 5:97-8.1(d) and N.J.A.C. 5:97-8.7(a), permitting the expenditure of \$253,000 by Denville Township from its affordable housing trust fund for the six-unit Peer Place townhouse development in Denville Township; and

BE IT FURTHER RESOLVED that, as a condition of being granted these waivers, Denville shall be required to include the Peer Place affordable townhouse project in its third round fair share plan and spending plan and will be expected to provide a mix of housing options in its third round fair share plan.

I hereby certify that this Resolution was
Duly adopted by the Council on Affordable
Housing at its meeting on May 13, 2010.

A handwritten signature in black ink that reads "Renee Reiss". The signature is written in a cursive, flowing style.

Renee Reiss, Council Secretary
Council on Affordable Housing