

**LAND USE BOARD
BOROUGH OF HIGHLANDS
FEBRUARY 7, 2019**

Regular Meeting: 7:30 pm

Location: Community Center, 22 Snug Harbor Road, Highlands, NJ

Mr. Stockton called the meeting to order by reading a procedural statement indicating that the meeting is being held in compliance with the Open Public Meetings Act. Everyone in attendance stood for the Pledge of Allegiance.

ROLL CALL:

PRESENT: Mayor O'Neil, Chief Burton, Mr. Francy, Mr. Knox (arrived at 7:43 pm), Mr. Gallagher, Mr. Nolan, Mr. Stockton, Mr. Lee, Mr. Kutosh, Mr. Montecalvo

ABSENT: Councilwoman Mazzola, Mr. Colby

Gregory Baxter was present as Land Use Board Attorney. Edward Hermann was present as Board Engineer.

Public Comment – Mr. Stockton opened the meeting for Public Comments for any general Land Use questions. No public comments were received.

Other Business

Consistency Review – Ordinance 19-01 - AN ORDINANCE AMENDING CHAPTER 21 (ZONING AND LAND USE REGULATIONS), ARTICLE XIV, SECTION 74 (PROHIBITED USES) OF THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF HIGHLANDS, COUNTY OF MONMOUTH, STATE OF NEW JERSEY – Mr. Baxter explained this Ordinance has been sent down from Borough Council for a review to determine whether it is consistent or inconsistent with the Master Plan.

Mr. Nolan questioned if the items that are stricken will now be permitted. Mr. Francy wondered the same and stated that is how he reads it.

Mr. Gallagher noted that rabbits were also stricken and stated that he would be okay with rabbits being permitted as well as tattoo parlors.

Mayor O'Neil indicated that the strikeouts may be an error.

Chief Burton stated that subsection B doesn't make sense because retail shops currently sell those items and claim they are for tobacco use.

Mr. Gallagher indicated concern with grouping medical marijuana and recreational marijuana, as medicinal may be prescribed and issued at a pharmacy.

Mayor O'Neil stated this is the towns attempt at getting ahead of the curve by banning marijuana before it becomes legal.

For the record, Mr. Knox arrived at 7:43 pm.

Mr. Baxter advised that the current proposed marijuana legislation at the State level would require municipalities to readopt any banning Ordinances within 180 days of the legislation being adopted. If the town adopts an ordinance prohibiting the sale of marijuana, an applicant could seek a variance from this Board.

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MR. NOLAN OFFERED A MOTION TO DEEM ORDINANCE 19-01 CONSISTENT WITH THE MASTER PLAN, WITH THE RECOMMENDATION THAT THE STRIKEOUT BE REMOVED FROM 21-74. MR GALLAGHER SECONDED THIS MOTION AND RECOMMENDED THAT RABBITS BE PERMITTED, AS WELL AS POOL HALLS AND ARCADES.

Ayes: Mayor O’Neil, Chief Burton, Mr. Knox, Mr. Gallagher, Mr. Nolan, Mr. Stockton, Mr. Lee, Mr. Montecalvo
Nays: Mr. Francy
Abstain: None
Absent: Councilwoman Mazzola, Mr. Colby

Resolutions

Application 2018-07, 22-24 Fifth Street, Block 56, Lot 15 (Scanlon) – Approval of Bulk and Use Variance Application

MR. NOLAN OFFERED A MOTION TO ADOPT THE RESOLUTION, SECONDED BY MR. GALLAGHER.

Ayes: Chief Burton, Mr. Colby, Mr. Gallagher, Mr. Nolan, Mr. Montecalvo, Mr. Kutosh
Nays: None
Abstain: None
Absent: Councilwoman Mazzola, Mr. Colby

Awarding Professional Engineering Contract for Land Use Board Engineer – The Board reviewed the contract terms as submitted. Mr. Baxter noted that he had requested some changes, which had been incorporated.

Mr. Gallagher indicated concern with the Borough’s liability for any subcontractors hired by T&M Associates. Mr. Hermann directed the Board to a section of the contract that addresses this concern.

MR. NOLAN OFFERED A MOTION TO AWARD THE LAND USE BOARD ENGINEER CONTRACT FOR 2019 TO EDWARD HERMANN, PE OF T&M ASSOCIATES, SECONDED BY MAYOR O’NEIL.

Ayes: Mayor O’Neil, Chief Burton, Mr. Francy, Mr. Knox, Mr. Gallagher, Mr. Nolan, Mr. Stockton, Mr. Lee, Mr. Montecalvo
Nays: None
Abstain: None
Absent: Councilwoman Mazzola, Mr. Colby

New Business

Application 2018-08, Block 54, Lot 5, 38 North Street (Flannery) - Mr. Baxter indicated the notice was unable to notice in time for tonight’s meeting so it will be carried to the March meeting. The applicant will be required to notice.

MR. NOLAN OFFERED A MOTION CARRY APPLICATION 2018-08 TO MARCH 7, 2019, SECONDED BY MR. STOCKTON.

Ayes: Mayor O’Neil, Chief Burton, Mr. Francy, Mr. Knox, Mr. Gallagher, Mr. Nolan, Mr. Stockton, Mr. Lee, Mr. Montecalvo
Nays: None

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Abstain: None
Absent: Councilwoman Mazzola, Mr. Colby

2018-09, 15 Fourth Street, Block 58, Lot 10 (Arijka Properties) – Application for Bulk Variance – Brad Batcha, Esq. introduced himself as the Attorney for the Applicant, Arijka Properties. Both of tonight’s applications are for adjacent, mirrored properties and will basically have identical testimony for each. He asked that the Board allow him to combine the two applications and allow the testimony to address both.

Mr. Baxter indicated that the notices for both applications are in order and the Board has jurisdiction to hear them both. He had no objections to conjoining the two applications for testimony purposes.

Mr. Nolan indicated the Board has seen several applications of this nature, from this applicant.

MR. NOLAN OFFERED A MOTION TO APPROVE BOTH APPLICATIONS, SECONDED BY MR. FRANCY.

Mr. Baxter explained that while the Board may understand the issue as it has been brought before them many, many times, without a proper record of a public hearing, it would open the applicant up to litigation or objections.

MR. FRANCY WITHDREW HIS SECOND OF THE MOTION.

MR. GALLAGHER OFFERED A MOTION TO COMBINE THE TESTIMONY AND PUBLIC HEARINGS FOR APPLICATION **2018-09, 15 FOURTH STREET** AND APPLICATION **2018-10, 17 FOURTH STREET, BLOCK 58, LOT 11**, SECONDED BY MR. KNOX.

Ayes: Mayor O’Neil, Chief Burton, Mr. Francy, Mr. Knox, Mr. Gallagher, Mr. Nolan, Mr. Stockton, Mr. Lee, Mr. Montecalvo
Nays: None
Abstain: None
Absent: Councilwoman Mazzola, Mr. Colby

Mr. Batcha advised this is a simple application for covered porches on both properties, which requires a variance for set-back for the accessory structure as well as for lot coverage.

Christopher Ruby, Valley Drive, Atlantic Highlands, was sworn in as the contractor of the property. Several Board members indicated they are familiar with Mr. Ruby as he has appeared before the Board for several other projects in town.

A photo of existing property at 15 Fourth Street was marked as Exhibit A-5. A photo of existing property at 17 Fourth Street was marked as Exhibit A-6. A photo of previously approved and built property at 25 Fourth Street was marked as Exhibit A-7. A photo of previously approved property with a covered porch at 61 Fourth Street was marked as Exhibit A-8.

Mr. Ruby advised that the applicant is seeking the variances associated with a covered porch for practicality reasons as well as for aesthetic reasons. It adds charm to the neighborhood and is consistent with the character of the neighborhood.

Mr. Francy indicated he prefers the covered porch look.

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Mr. Hermann stated there are a few things he would like to get on the record so that going forward through the permitting process, the relief granted is clear to whoever is reading the Resolution. The front yard setback proposed is 18 feet where 20 is required. Due to the fact that the porch will be covered it now counts towards the building coverage calculations, bring the proposed building coverage for both lots to 36.36% where 33% is permitted. The side yard setbacks will be 3 and 4 feet where 6 and 8 feet are proposed. The stairs will have a setback of 1 foot where 3 are required. Mr. Ruby confirmed those numbers are correct. He added that the stairs being set to one side allow for more off-street parking. The homeowner or emergency personnel would be able to access the rear and side yards by going under the stair case. The applicant feels this is a more practical and aesthetically pleasing design. The purpose of the covered deck would be to allow the homeowner to get out of the elements while accessing their keys to enter the home.

Mr. Stockton asked if there are any members of the public who wish to ask questions or make comments; none were received.

Mr. Nolan stated that is unfortunate to make the applicants go through the process of a variance and stated that he would like to see that addressed by the Governing Body. Several board members offered comments in agreeance.

MR. NOLAN OFFERED A MOTION TO APPROVE THE APPLICATION, SECONDED BY MR. GALLAGHER.

Ayes: Mayor O'Neil, Chief Burton, Mr. Francy, Mr. Knox, Mr. Gallagher, Mr. Nolan, Mr. Lee, Mr. Montecalvo, Mr. Stockton

Nays: None

Abstain: None

Absent: Councilwoman Mazzola, Mr. Colby

Minutes for Approval

January 3, 2019 – MR. FRANCY OFFERED A MOTION TO APPROVE THE MINUTES, SECONDED BY MR. GALLAGHER. ALL ELEGIBLE MEMBERS VOTED IN FAVOR BY VOICE VOTE.

Adjournment

Seeing no further business, Mr. Stockton asked for a motion to adjourn.

MR. FRANCY OFFERED A MOTION TO ADJOURN THE MEETING AT 8:38 PM, SECONDED BY MR. GALLAGHER. ALL PRESENT MEMBERS VOTED IN FAVOR BY VOICE VOTE.

Respectfully submitted,

Erin Uriarte
Land Use Board Secretary