

**Borough of Highlands**  
**LAND USE BOARD**  
**Regular Meeting**  
**March 5, 2020**

***Meeting Location: Robert D. Wilson Memorial Community Center, 22 Snug Harbor Ave, Highlands NJ.***

Mr. Stockton called the meeting to order at 7:35 pm.

Mr. Stockton asked all to stand for the Pledge of Allegiance.

***Mr. Stockton read the following statement: As per requirement of P.L.1975, Chapter 231 notice is hereby given that this is a Regular Meeting of the Borough of Highlands Land Use Board and all the requirements have been met. Notice has been transmitted to the Asbury Park Press and the Two River Times. Notice has been posted on the public bulletin board.***

**ROLL CALL:**

Present: Mr. Burton, Mr. Kutosh, Mr. Lee, MS. LaRussa, Councilmember Mazzola, Mr. Montecalvo, Ms. Nash, Ms. Walsh, Ms. Tierney, Mayor Broullon, Mr. Vice Chairman Knox, Chairman Stockton

Absent: Mr. Colby

Also Present: Board Attorney Mr. Baxter

Board Engineer Edward Hermann

**OPEN FOR PUBLIC COMMENTS:** None

**RESOLUTIONS:** None

**HEARINGS ON NEW BUSINESS:** LUB2019-12, 5 Lighthouse Road, Block 19 Lot 16.02, Whitfield - Application for Minor Subdivision with Variances - to be carried to May 7th 2020

Mr. Stockton stated there was a request from the applicant to be carried without further notice to May 7<sup>th</sup>, 2020. Board will need to make a motion to carry application to My 7<sup>th</sup> 2020.

Offered: Mr. Kutosh

Seconded: Mr. Knox Seconded

Ayes: Mr. Burton, Mr. Kutosh, Mr. Lee, Ms. LaRussa, Councilmember Mazzola, Mr. Montecalvo, Ms. Nash, Ms. Walsh, Mr. Knox, Mayor Broullon, Vice President Knox, Chairman Stockton

Nays: None

Abstain: None

Absent: Mr. Colby

**Approval of Minutes:**

1. January 2, 2020

Offered: Mayor Broullon

Seconded: Mr. Kutosh

Ayes: Mr. Burton, Mr. Kutosh, Mr. Lee, Ms. LaRussa, Ms. Nash, Ms. Walsh, Mr. Knox, Mayor Broullon, Vice President Knox, Chairman Stockton

Nays: None

Abstain: Councilmember Mazzola, Mr. Montecalvo,

Absent: Mr. Colby

**COMMUNICATION AND VOUCHERS:**

Approval of Invoices from T&M Associates & Mr. Baxter, Esq.

**HEARINGS ON OLD BUSINESS:**

Chairman Stockton opened meeting for the continuation of LUB2019-11, 16 Miller Street, Block 56 lot 5, Five Star Real Estate Group, LLC-Application for use Variance

Mayor Broullon, Councilmember Mazzola, Ms. Tierney, Ms. Walsh steeped down.

Attorney Baxter stated for the record the four members that had listened to the December 5<sup>th</sup>2019 meeting tape. Exhibits B-4, Ms. Walsh, B-5 Ms. Nash, B-6 Mr. Kutosh, B-7 Ms. LaRussa.

Chairman Stockton opened for public comment.

Chris Francy 36 Fifth Street. Mr. Leckstien stated Mr. Francy was a board member when case began in December 2019. Mr. Baxter clarified he was on the board when case began but not as it continued. Mr. Francy expressed that the land use board needs to protect the master plan and that this proposed plan will not add value to the neighborhood. States the applicant is not conforming to land use rules. No comments from the board. Mr. Leckstien confirmed that they are not here for bulk or hardship variance they are seeking a use variance.

Annamarie Tierney 29 Shrewsbury Avenue believes that this development will have negative impacts on the surrounding homes and community. She stated there are only three sewer bills. Mr. Leckstien stated there is no law that you must have sewer to each unit and that there is no evidence of Ms. Tierney's statement.

Lynn Sternberg 297 Shore Drive stated there are a lot of abandoned buildings in town, why not add to the beauty of the town by building this project. No questions or comments.

Tom Walczewski 80 Shrewsbury Avenue opposed to overdevelopment because this is a single-family zone use. He quoted the master plan. Believes this will cause harm to existing and future residents as well as the borough. No questions or comments.

Ashley Pahler 51 South Peak Street stated property is R2 Zone single family zone and should be protected for the benefit of the neighborhood environment and family living. No questions or comments.

Mr. Francy had a correction to his comment. You do not need a pipe for every home but you do need a sewer permit and applicant is only paying for 3 units not 4 as he claims. Mr. Leckstien asked where is the proof for his statement. There was no proof of this submitted.

Candice Douglas 24 Miller Street, statement from an immediate concerned neighbor asked the board to consider the residents requests and know that this will have many negative impacts. No questions or comments.

Mr. Francy stated they only have three legal sewer bills and they are not grandfathered in to have four. Mr. Leckstien stated that this is not the law. They are not required to have four sewer bills.

Patricia Catalano 2 Private Road, against putting four units in an area zoned for single family use. Siting previous applications that were single family and were turned down. Chairman Stockton stated that every application stands on its own and we cannot use previous applications.

Christopher Moran 16 Cornwall Street, states zoning board needs to consider what they approve or deny, that this will not add value to the town only to builder. No questions or comments.

William Jennings 200 Portland Road, believes since there are already four homes on the site sees no problem with taking three older buildings and putting up two new buildings that would beautify area. He is for the project. No questions or comments.

Candice Douglas, stated not all residents would get value from this project. No questions or comments.

Chairman Stockton closed public portion at 8:15pm

Attorney Leckstien summary statement of application thanking public for coming out. Referenced the letters from town confirming the four units, that the town believes it is four units, as does the applicant. He stated property is a mess as it stands and this would be a much better use of the property. All they are asking is to continue with what they have, four units which is their right. He emphasizes that this is not a hardship it's special reasons. Applicant rested.

Board deliberated.

Attorney Baxter commented on the board engineer's letters of completeness regarding the positive and negative criteria. He stated once you remove the four existing structures under the law you start from scratch, that is why the applicant is here. The exemption Attorney Leckstien refers to is correct the applicant is entitled to keep what they have, when you change it or remove it then prompts board action. This is just to vote on approval or denial of the number of units. He explained what positive and negative criteria would need to be deliberated in order to vote on this matter.

Mr. Lee feels the board decision should be guided by the master plan. He stated the expansion of multifamily use would increase the intensity and could cause negative impacts on the community. He also believes that all the uses of the property have been fully explored.

Chairman Stockton looked at land use ordinance 21-98A1 non-conforming use should not be expanded or changed to another non-conforming use. We should not make any confirmation that four units exist on the property. The C/O's are vague as to what C/O's went with what structures on the property. He stated that there are three buildings on the property but no one can say with certainty what the use is of those buildings.

Mr. Knox feels that it is irrelevant what is there now. He is not sure we could change a non-conforming lot to another non-conforming lot. Feels that it is a beautiful project but it simply does not fit.

Mr. Burton stated that the master plan is a living breathing document that why we revisit and change it and this is an opportunity for change. He feels that this is why we have vacant properties etc. in town.

Chairman Stockton asked for a motion to either deny or approve

Motion to deny application

Offered: Mr. Lee

Seconded: Ms. LaRussa

Ayes: Mr. Burton, Mr. Kutosh, Mr. Lee, Ms. LaRussa, Mr. Montecalvo, Ms. Nash, Vice President Knox, Chairman Stockton

Nays: None

Abstain:

Absent: Mr. Colby

Chairman Stockton called for a five-minute recess at 8:38pm

Chairman Stockton called for Roll call at 8:44pm

**Roll Call:**

Present: Mr. Kutosh, Mr. Lee, Ms. LaRussa, Councilmember Mazzola, Mr. Montecalvo, Ms. Nash, Ms. Walsh, Ms. Tierney, Mayor Broullon, Vice Chairman Knox, Chairman Stockton

Absent: Mr. Colby

Also Present: Board Attorney Mr. Baxter

Board Engineer Edward Hermann

Chairman Stockton opened the meeting for:

**HEARINGS ON NEW BUSINESS:**

LUB2019-13, 45 Second Street, Block 62 Lot 2, Burton - Application for Bulk Variance

Chairman Stockton stated due to conflict of interest that the board attorney, board engineer and he himself would be stepping down. He announced Ronald Cucchario, Esq. as the conflict attorney for this case and Vice Chairman Knox would be taking over.

Attorney Cucchario swore in the applicant Robert Burton.

Mr. Burton stated that he and his wife Nancy are both the owners and they are seeking a minimum front yard setback where 20 feet is required and we are looking for 17.5 feet with a covered front porch. Home there now is brand new built after sandy. Attorney Cucchario referred to the plans dated 9/22/2015 regarding the height. Mr. Burton stated two sets of plans both with the same date.

Mr. Knox clarified that this is on the flood plain.

House was not eligible for REM grant after sandy due to being second home. Professionals were hired. Plans were submitted and approved as is by zoning official. The plans showed the front porch. House was built when going for final C/O approval everything passed except now a variance for a front porch was needed. There was an appeal process but they would need a variance so that is why they are here today.

Ms. Mazzola asked to see documentation.

Vice Chairman Knox stated average set back has been the same for years.

Attorney Cucchario asked to enter exhibit A-1 as letter from Eastern Civil Engineering, LLC undated.

Exhibit A-2 letter from Eastern Civil Engineering, LLC dated 4/20/2016 prepared by Andrew Stockton

Exhibit A-3 letter from Borough of Highlands Floodplain Administrator

Attorney Cucchario asked if the applicant's design is necessary. Also asked applicant to testify that it not only benefits his property but the neighborhood as a whole. Mr. Burton stated absolutely and that the design confirms with the neighborhood.

Attorney Cucchario stated the positives the ascetic benefits not only for the owners but to other people in the neighborhood.

The negatives would be the same.

Vice Chairman Knox opened up for any questions or comments from the board.

None

Vice Chairman Knox opened up for questions or comments from the public.

None

Motion to approve

Offered: Mr. Kutosh

Seconded: Mayor Broullon

Ayes: Mr. Kutosh, Mr. Lee, Ms. LaRussa, Council Member Mazzola, Mr. Montecalvo, Ms. Nash, Ms. Walsh, Mayor Broullon, Vice President Knox

Nays:

Abstain:

Absent: Mr. Colby

**Action on Other Business:**

A Resolution Awarding a Fair and Open Contract for Professional Engineering Services

Vice Chairman Knox opened up for any questions or comments.

None

Vice Chairman asked for a Motion to approve

Vice Chairman Knox stated for the record Mr. Burton was back in attendance.

Offered: Mayor Broullon

Seconded: Mr. Kutosh

Ayes: Mr. Burton, Mr. Kutosh, Mr. Lee, Ms. LaRussa, Council Member Mazzola, Mr. Montecalvo, Ms. Nash, Ms. Walsh, Mayor Broullon, Vice Chairman Knox

Nays:

Abstain:

Absent: Mr. Colby

**Ordinance Review for Master Plan Consistency-ORDINANCE 0-20-01**

O 20 01 An Ordinance Amending Section 21-84B Steep Slopes and Slump Blocks of the Borough of Highlands Municipal Code

Awaiting council direction was tabled by council.

Discussion on creating a committee to review and possibly update land use ordinances and procedures.

Ms. Mazzola asked attorneys advice on this procedure of having a committee. He stated that only four members could meet it cannot be a quorum. And if emails go out there should be no communication back and forth. Board secretary can distribute emails to members.

**ADJOURNMENT**

Vice Chairman Knox offered a motion to adjourn.

Seconded: Mr. Kutosh

All in favor.

None Opposed

Adjourned at 9:15PM

Offered by Mr. Kutosh

Seconded by Ms. LaRussa

Ayes: Mr. Kutosh, Mr. Lee, Ms. LaRussa, Councilmember Mazzola, Ms. Nash, Ms. Walsh, Vice Chairman Knox, Chairman Stockton

Nays:

Abstain: Chief Burton, Mr. Colby, Mayor Broullon,

Absent: Mr. Montecalvo, Ms. Tierney,

I, Michelle Hutchinson, certify that this is a true and correct record of the actions of the Borough of Highlands Land Use Board on May 7, 2020

  
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Michelle Hutchinson, Land Use Board Secretary