

Borough of Highlands
Planning Board (Land Use Board)

April 11, 2018

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

Call to Order: Mr. Stockton called the meeting to order at 7:30pm.

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

Open Public Meeting Statement: 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 Planning Board (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: Mayor O'Neil, Mr. Burton, Mr. Francy, Mr. Knox, Mr. Colby, Mr. Gallagher, Mr. Nolan, Mr. Stockton and Mr. Lee (alternate for Mr. Braswell).

Absent: Mr. Braswell and Mr. Montecalvo

Professionals: Mr. Serpico, Board Attorney and Mr. Yuro, Board Engineer, T&M Associates

Motions for Adjournment and any other Motions:

Mr. Stockton offered a motion to appoint Nancy O'Neil as Planning Board (Land Use Board) Secretary. Mr. Stockton asked for any comment at which time he suggested the need to help transition Mrs. O'Neil into the review process and Board's expectation relative to the duties of this position and asked for a volunteer(s) from the Board. Mr. Gallagher and Mr. Francy agreed to act in this role.

Motion Offered: Mr. Nolan; Second, Mr. Knox

Roll Call:

AYE: Mr. Burton, Mr. Francy, Mr. Knox, Mr. Colby, Mr. Gallagher, Mr. Lee, Mr. Nolan and Mr. Stockton

NAY: None

ABSTAIN: Mayor O'Neil

Open for Public Comments:

At this time Mr. Stockton explained that this is the portion of the meeting where the public is allowed to ask questions or comment on what the Board does, the process and procedures. He then gave an overview of the process of the meeting starting with the Board's review of applications for development through a three-fold process. First the initial step is that the paperwork for an application is presented to the Board for review of completeness, once deemed complete a date will be set for the second phase called a Formal Hearing. At the Formal Hearing a presentation is given by the applicant; the Board and/or its professionals will ask questions and then the floor will be opened to the public to ask questions or make statements on the application. The meeting is then closed to the public, a summarization is given, deliberations are heard and a vote is taken. Mr. Stockton reminded the public that when they wish to ask questions they will be asked to give their name and address and if a statement is being given, they will be sworn in under oath. Mr. Stockton also reminded the public to refrain from calling out or heckling as he promised all will have their chance but it must be done in an orderly process for the record. Mr. Stockton asked if anyone had any questions and none were offered.

Unfinished or Adjourned Hearings: None

Applications Scheduled for Completeness Review:

- 1) 2017-12 Our Lady of Perpetual Help, 141 Navesink Avenue – Site Plan
Approval with Variance to configure the rectory and part of property for a parking lot.**

Mr. Stockton reminded Board Members that this application was initially approved 4-5 months ago and deemed complete and scheduled for a formal hearing; motion carried but nothing happened and subsequently the applicant has now submitted revised plans and application paperwork. Mr. Stockton asked if the applicant was present at which time Mrs. Post raised her hand and stated she was a member of Administration at Our Lady of Perpetual Help but her role at this meeting was intended to be only that of moral support for the individual who was scheduled to appear. At this time Mr. Serpico, Board Attorney, said that the applicant need not be present in order to continue.

Mr. Stockton asked if the Board had any comments:

Mr. Francy voiced his concern about the line on plans that appeared to indicate an easement for access through Lot 3 onto Highway 36. He asked that this easement issue be defined in the requirements provided by T & M Associates.

Mr. Stockton asked for a motion to deem this file complete and to put on agenda for the May 9, 2018 meeting to be heard. Mr. Stockton also requested that the Board Secretary notify the Applicant's attorney of this motion and to instruct with need to notice with note of easement.

Motion Offered: Mr. Nolan; Second, Mr. Gallagher

Roll Call:

AYE: Mayor O'Neil, Mr. Burton, Mr. Colby, Mr. Franczy, Mr. Gallagher, Mr. Knox, Mr. Lee,
Mr. Stockton, Mr. Nolan,

NAY: None

ABSTAIN: None

Hearings on New Business:

1) **2018-01 Arjika Properties, 228 Bay Avenue** – Bulk Variance to cover a Front Porch

Mr. Stockton introduced this application at which time Mr. Knox recused himself. Mr. Tejas Kapadia, Attorney for applicant, Chris Ruby, builder, and owner, Mr. Arjika addressed the Board reciting application request for bulk variance to cover the front porch at 228 Bay Avenue covering 36.3% versus 33% allowed.

Mr. Serpico confirmed his review of this application and indicated all was in order to proceed.

Mr. Nolan questioned the applicant that this was the same variance as priors done by Mr. Ruby on other homes in the area. Mr. Ruby confirmed this to be the same. Mr. Nolan indicated he was questioning for those not aware of prior requests which received approval.

EXHIBITS PROVIDED AS EVIDENCE:

B-1 Letter from T&M on Engineering as well as Planning report dated 3/8/18

A-1 Elevation Certification from Graham Design LLC, Red Bank, NJ signed by Ron Grammer, licensed architect Lic #17604

A-2 Survey Map from Mr. Thomas Finnegan, Surveyor

Mr. Yuro, Board Engineer asked Mr. Kapadia to provide description of what was being proposed to be done. At which Mr. Kapadia indicated the want for front porch deck with covering which Mr. Serpico had confirmed to be 36.3% rather than allowed 33%. Mr. Kapadia indicated this was solely for character and curb appeal.

Mr. Stockton voiced concern on how steps would come down at which Mr. Ruby indicated they would come straight down on left side. Exact same layout as house next door except on opposite side.

Mr. Burton asked how far the steps were from the curb line. Mr. Ruby confirmed this to be 4'.

Mr. Yuro, Board Engineer, was sworn in by Mr. Serpico and then indicated that there were two variances needed on this project. 1) coverage of building and 2) front yard set back because front porch becomes part of structure. Currently the project is 15' off property line as opposed to 20' required for this application; requiring a 5' relief variance.

Mr. Yuro also wanted on record that a letter was needed with a sketch either survey or plot plan on orientation of steps down to grade for proper review of any encroachments.

Mr. Kapadia questioned the current zoning of the property at which discussion continued on the date of application versus changes to Borough zoning changes. Mr. Stockton said the application was submitted January 24, 2018 and Mr. Serpico explained the change in laws which indicates that the zoning is based on initial application date, not based on recent ordinance change of zones.

Mr. Stockton asked if any more questions from Board members and there were none so he asked that of Public.

Mr. Peter Mullin was then sworn in at which time he asked applicant if this home was already built and applicant replied yes but Board members clarified porch was not yet built. Mr. Mullen said the reason he was asking this was with regard to front yard setbacks interfering with pedestrian traffic. Mr. Yuro said although he agreed with him, in this case it was fine. The public portion was closed and Mr. Stockton asked for a motion.

Motion Offered: Mr. Nolan; Second Mr. Francy

Roll Call:

AYE: Mayor O'Neil, Mr. Burton, Mr. Francy, Mr. Colby, Mr. Gallagher, Mr. Lee, Mr. Nolan and Mr. Stockton

NAY: None

ABSTAIN: Mr. Knox

Mr. Stockton summarized that this application was deemed complete with the conditions as outlined in T&M Associates review letter. Hearing to be scheduled for May 9, 2018 meeting; no noticing required.

- 2) **2018-02 Ruby, 7 Marine Place** – Minor Subdivision, Bulk Variance to construct three single family dwellings on newly created lots.

Mr. Stockton called the application followed by Mr. Serpico stating that it appeared the majority of the audience was here for this application and asked if there were any attorneys present. Mr. Sean Byrnes, Esq., introduced himself as attorney representing Mr. Gottfried Bierbacher, 5 Washington Ave. who is overseas. Mr. Rohrig, Esq., was here not as attorney but to support his father who owned property adjacent to above property at 6 Barbarie Avenue.

Mr. Serpico confirmed that Mr. Rohrig was not on title nor was he licensed in State of New Jersey.

Mr. Serpico indicated to the attorneys that this was no different than a trial and that the attorneys would be involved and asked if all understood proceedings; all indicated they understood.

Mr. Chris Ruby was sworn in as witness and builder of project.

Mr. Serpico asked for clarification of parties present as Mr. Chris Ruby, builder and Mr. Arjika, principal of property. Mr. Stockton then questioned that the names on the application and that of the plans were not the same. Mr. Serpico confirmed both all parties involved and all were acceptable. Exhibits were then presented.

EXHIBITS PRESENTED AS EVIDENCE:

A-1 Plan presented as Minor Sub-Division Map signed and sealed by Thomas Finnegan dated 10/30/2017.

A-2 Tax Map of Borough of Highlands showing three lot sub-division

A-3 Picture of current property and buildings

A-4 Document by Hillard Construction showing properties and widths within 200-500'

A-5 Architectural Site Plan Elevation by Graham LLC, Lic# 17604, signed and dated 9/21/2017

A-6 Areal Overview – foundation to be provided by attorney.

A-7 Flood Elevation – 7 Marine Place

A-10 Flood Elevation - 8 Marine Place

A-11 Flood Elevation - 2 Barbarie Ave.

B-1 T&M Associates Report dated 3/8/2018.

Board Engineer, Bob Yuro, sworn in for discussion. Bob indicate he was given this file abruptly and this together with the need for the applicant to get their papers in order, he suggested the applicant consider an adjournment so everyone can be better prepared to present and review.

Mr. Stockton stated he would like to hear from the attorneys to which Mr. Serpico asked specifically if they had any objections to the adjournment and on what basis. Mr. Rohrig stated his frustration with this being the third meeting on this and asked that the next meeting be the final. Mr. Stockton stated this was actually the first meeting for hearing the other two being for completeness as first completeness was noticed incorrectly. Mr. Serpico said although they

were understanding of the frustration they could not guarantee the next meeting would be the final.

Mr. Stockton summarized this Hearing would be put on the schedule for the May 9 meeting and would not require any further notice. Mr. Serpico asked for a statement from applicant's attorney waiving any time constraints under MLUL at which applicant agreed.

Motion Offered: Mr. Nolan; Second Mr. Francy

Roll Call:

AYE: Mayor O'Neil, Mr. Burton, Mr. Francy, Mr. Knox, Mr. Colby, Mr. Gallagher, Mr. Lee, Mr. Nolan and Mr. Stockton

NAY: None

Abstain: None

Approval of Resolutions: None

Unfinished or Adjourned Hearings: None

Hearings on New Business:

Mr. Stockton introduced the request by Council to review and comment on Ordinance 0-18—06, Chapter 21 amendment of Borough Code concerning revisions to the CBD Zone and deleting B-1 Neighborhood Business District.

Mr. Serpico asked for clarification from Mr. Stockton as to whether this was the same ordinance previously discussed at the last meeting. Mr. Stockton said the previous was 0-18-01 which was similar but that this one was specific to changing B1 Zone on Bay Avenue. Mr. Stockton said this request for review was via email dated 3/22/18. Mr. Serpico indicated this would still make 35 day review but formal action would not be until next meeting. In interim a letter to Council should be provided by April 26, 2018.

Mr. Stockton asked for comments at which time the Mr. Knox opened with concerns of having thought when previously discussed, the plan was one of a one-use district for residential but appears instead to have become businesses with apartments. The Board discussed concern of this plan and suggestions and concerns they wanted addressed.

Council woman Brouillon was sworn in and explained the Borough had hired a Planner to address a Form Base Development and their report was expected by the end of April. Mr. Stockton made suggestion that perhaps a meeting workshop should be held with the Planner and the Board to share ideas and concerns.

In summary, Mr. Stockton said he would prepare and send a letter to Council prior to April 26.

Action of Any Other Business:

Mr. Serpico introduced a letter written by Mr. Giunco, Esq., attorney for Smoke & Mirrors requesting a withdrawal of application without prejudice.

Mr. Serpico also asked that T&M do a second review of the file on 7 Marine assuring all dates with respect to Zoning Ordinance are accurate.

Motion Offered: Mr. Nolan; Second, Mr. Gallagher

Roll Call:

AYE: Mayor O'Neil, Mr. Burton, Mr. Francy, Mr. Knox, Mr. Colby, Mr. Gallagher, Mr. Lee, Mr. Nolan, Mr. Stockton

NAY: None

Abstain: None

Approval of Minutes: None

Communication and Vouchers: None

Adjournment:

Mr. Stockton asked for a motion to adjourn.

Offer of Motion: Mr. Nolan; second, Mr. Gallagher

Meeting adjourned at 9:30 pm