

BOROUGH OF HIGHLANDS
LAND USE BOARD MEETING MINUTES
AUGUST 8, 2018

Meeting Location: Robert D. Wilson Community Center
22 Snug Harbor Avenue, Highlands, New Jersey

Call to Order: 7:40

Pledge to Flag:

Open Public Meeting Statement:

As per requirement, notice is hereby given that this is a Regular Meeting of the Borough of Highlands Land Use Board and all 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 bulleting board. Formal Action will be taken.

Roll Call:

Present: Mayor O'Neil, Chief Burton, Councilman Braswell, Mr. Colby, Mr. Francy, Mr. Gallagher, Mr. Knox, Mr. Lee, Mr. Montecalvo, Mr. Nolan and Mr. Stockton

Absent: None

Executive Session:

Mr. Stockton explained the need for Executive Session to discuss personnel matters excusing the Board members to the Library at the Community Center at 7:50pm; Mr. Gallagher made a motion; second Mr. Nolan. The Board returned at 8:12.

Roll Call:

Present: Mayor O'Neil, Chief Burton, Councilman Braswell, Mr. Colby, Mr. Francy, Mr. Gallagher, Mr. Knox, Mr. Lee, Mr. Monticalvo, Mr. Nolan and Mr. Stockton

Action on Other Business:

- 1) Resolution appointing new Land Use Board Attorney

Motion offered: Mr. Gallagher, second Mr. Nolan

Roll Call:

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

NAY: None

Motion passed

- 2) Appointment of Conflict Engineer/Planner for 2018-03 Polaris Retreat, LLC, 181 Bay Ave

Mr. Stockton explained there was a need for a conflict Engineer for the 2018-03, Polaris Retreat, LLC, 181 Bay Avenue and offered Mr. David Hoder, Hoder Associates.

Mr. Baxter explained that a conflict was expressed by T&M siting that Mr. Yuro, our current Land Use Board Engineer working for T&M, whose office has an ongoing relationship with the Woodbridge Planner, Marta Lefsky, who happens to be an expert witness retained by Mr. Woznick, attorney for an objector. The concern is a conflict of potential comment and review being offered by someone who they are working for and is paying them and therefore, causing the need for a conflict engineer. When questioned on the voting of details to date, Mr. Baxter said Mr. Hoder will decide if there is any need to redo the work that has been done to date. Mr. Gallagher highlighted that Mr. Yuro only reviewed the file for completeness and that it had not yet started as a Hearing.

Mr. Gallagher offered motion for Mr. Hoder as Conflict Engineer; second Mr. Knox

Roll Call:

AYE: Chief Burton, Mr. Francy, Mr. Gallagher, Mr. Knox, Mr. Stockton

NAY: Mayor O'Neil, Mr. Nolan

ABSTAIN: Mr. Braswell, Mr. Colby

Motion passes

Mr. Stockton explained that based on appointment of a new LUB attorney and his availability, the calendar for the remainder of year will be changed to the first

Thursday of each month as September 6, October 4, November 1 and December 6. Mr. Stockton also explained that based on the proposed attendance, the Board would be obtaining a larger venue and therefore, the September 6 meeting will be held at Henry Hudson Regional Cafetorium beginning at 6:30 for Executive Session for insurance, JIF review and Public start at 7:30pm.

Motion offered: Mr. Gallagher, second Mr. Knox

Roll call:

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

NAY: None

Motion passed

Open Public Comments: None

Motions for Adjournment and Any Other Motions:

- 1) 2018-03 Polaris Retreat, LLC 181 Bay Avenue – Minor Site Plan & Non-Permitted Use in Zone – Review of Professionals**

Mr. Baxter stated he had spoken to the attorneys involved with this case and had suggested that the Board review all professionals involved to assure no further conflicts.

Board Members in conflict: Mayor O'Neil and Councilman Braswell due to Use Variance and therefore they are not permitted to sit/vote by statute, Mr. Montecalvo due to direct conflict with Planner in Woodbridge and objector's expert, Ms. Marta Lefsky, and Chief Burton had conflict due to sister living with 200' and Mr. Colby owns property within 200'.

When questioned, Mr. Montecalvo stated that Ms. Lefsky reviews Mr. Montecalvo's business projects. Mr. Baxter felt this was not a conflict but asked for other professional and experts' opinion on the matter. Mr. Baxter asked Mr. Montecalvo if he could sit fairly and open on this file despite his personal business. Mr. Montecalvo stated he could. Mr. Baxter asked Mr. Lott and Mr. Wasknick if they had any comments. Mr. Lott questioned further the nature of Mr. Montecalvo's business in the Woodbridge office and then expressed his

opinion of concern; and therefore, confirmed concern of conflict. Mr. Wasnick stated he felt there was not a conflict. Mr. Stockton requested that based on Mr. Lott's concerns that Mr. Montecalvo step down from this case and confirmed there were six Board Members left with the potential for two more alternate members to be appointed.

Mr. Stockton requested the review of the file. Mr. Baxter confirmed noticing was in order to proceed and review began with Mr. Lott introducing himself as Attorney for this file. He went on to list experts, Site Engineer MCH Engineering, Inc., Architect, Christine Wishart, Traffic Consultant, Neglia Engineering Associates; Planner Allison Coffin and Principal Polaris, Erin Sherman. Mr. Lott stated Polaris was currently retaining clerical help and a clinical social worker.

Mr. John Kwasnick, Mezzacca & Kwasnick, stated he was representing Greg Wells and Mr. Baxter mentioned he had heard that Mr. Gasiorowski is representing another objector.

Mr. Stockton then summed up that due to the need of the appointment of a new Conflict Engineer who is not yet up to speed with the file and not present, this meeting is only to review the professionals involved by all parties and scheduling the Hearing date for September 6, 2018. He further reviewed the upcoming process for this Hearing

Mr. Baxter added a cautionary note regarding emails and letters that have been sent to the Board regarding opinions of this file. He stated that no opinions will be read and/or considered by the Board except those given in sworn testimony at the Hearing meetings.

Mr. Baxter requested a motion to carry this to Hearing until Thursday, September 6 at 7:30 with no additional noticing required by Counsel

Motion offered: Mr. Nolan, second Mr. Gallagher

Roll Call:

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

NAY: None

Motion carried

Mr. Stockton called a five-minute recess at: 9:50; return 9:55

Roll Call:

Present: Mayor O'Neil, Chief Burton, Councilman Braswell, Mr. Colby, Mr. Francy, Mr. Gallagher, Mr. Knox, Mr. Lee, Mr. Montecalvo, Mr. Nolan and Mr. Stockton

Absent: None

Application for Completeness Review:

- 1) **2018-05 353 Shore Drive** - Site Plan with Variances for a proposed New Single Family Home

After reading the Completeness File, Mr. Stockton stated that the Plot plan was done by his father, Mr. Richard Stockton, and therefore, he was conflicted out and would turn the meeting over to the Co-Chairman, Mr. Nolan for this file.

Mr. Bill Maier, owner of the property introduced himself as representative for this file. He went on to note the review letter from T&M date July 27, 2018, outlining T&M's findings and notes for the additional information needed for the Hearing along with their recommendation of acceptance for completeness at this time. Mr. Maier read his response dated August 6, 2018, citing six (6) items (#10-16) listed in T&M's letter that did not pertain to the application and therefore requesting waivers for these and noting items 5-8 for elevation, paving, curbing and location of all structures with 75' of property have been updated on current Site Plan and his plan on having preliminary architectural plans available for the September Hearing.

Mr. Yuro stated he had no problem with Mr. Maier's letter, dated August 6, 2018, submitted along with item #10, Stormwater Management papers, and a waiver for other items and additional items for 5-8 with revised plans for such. Therefore, T&M had no problem approving this file for Completeness. Applicant is to have noticing and said paperwork to the Board by 10 days prior to the scheduled September 6 meeting.

Motion offered: Mr. Gallagher; second Mr. Knox

Roll Call:

AYE: Mayor O’Neil, Chief Burton, Councilman Braswell, Mr. Colby, Mr. Francy, Mr. Gallagher, Mr. Knox, Mr. Lee, Mr. Montecalvo, Mr. Nolan

NAY: None

ABSTAIN: Mr. Stockton

Motion passed; Hearing scheduled for September 6.

Mr. Stockton returned to table: 9:05

Hearing on New Business:

- 1) **2018-04 17 Ocean Street** - Construct a garage for off-street parking

Mr. Baxter confirmed Notice in proper order to proceed.

Mr. Alfieri, Esq., introduced himself as attorney of record for this file. He then called Mr. Joseph Molinari, 601 Bangs Ave, Asbury Park as Architect of record. Mr. Baxter swore in Mr. Molinari and he proceeded to give his credentials. Through this it was ascertained that Mr. Molinari was not a licensed architect. As a result, Mr. Stockton explained that the Board would allow Mr. Molinari to testify to the general construction of the building but not for architectural details. Mr. Baxter asked Mr. Molinari’s part in the preparation of the documents presented and he indicated he was a part of all preparation in the capacity of a draftsman.

Exhibits:

A1 – Variance Application, A2 – Zoning Application, A3 – Survey dated 11/8/16 by Lackland Surveyor, A4 - proposed plans and elevation, dated 5/29/18 signed James Watt, A5 - Grading Plan for proposed garage dated 7/30/18 signed Daniel Caruso, and B1- Mr. Yuro’s first Engineer Review Letter dated 7/27/18

Mr. Alfieri and Mr. Molinari went on the describe the details of the above exhibits.

Mr. Stockton asked if the Board had any questions on these exhibits. Questions were raised and discussions had on issues of curb cuts, elevation, grading, and parking. Colored pictures were offered by the Mr. Alfieri which were taken

August 8, 2018, of the front of property and marked as Exhibits a6 and 6b to help give current visual of property.

Mr. Daniel Caruso, 201 Providence Line Road, Wrightstown NJ, licensed NJ Engineer was introduced stating his qualifications for this file. Mr. Caruso went on to describe the existing design with proposed additional garage and retaining walls. He also addressed variance issues outlined in T&M's First Engineer Review letter dated July 27, 2018, regarding front yard setbacks, placement of garage, off street parking, access point and slopping and retaining walls.

The Board asked for plan updates for walkways and landscaping which the Applicant agreed.

Mr. Stockton asked for questions from Board. Discussion was held on water run off changes and grading changes addressing this concern.

Mr. Yuro requested for spot changes on grading, small wall on south side, need for spot grade top and bottom, closer look north side property create ridge line to adjoining property to help reduce runoff. For clarification run off from main house will run off garage roof, suggesting gutters and downspout on south side of hill noted on plans.

Mr. Stockton asked if any questions from Public to which Ms. McMillan, 19 Ocean Street, was sworn in and expressed her concerns and opinions of proposed project siting such issues as survey boundaries and run off.

Mr. Douglas Whitman, 15 Ocean Street raised questions to Mr. Caruso offering two pictures which were numbered of Exhibit 01 front of house and 02 a picture from 15 Ocean street looking south, questioning the retaining wall which is on his property line and its structural integrity. It was agreed that a temporary orange fence would be placed during construction.

Mr. Stockton closed public portion asking for a motion on file

Chief Burton questioned a second retaining wall in the middle of the hill. Mr. Massett, owner 17 Ocean Street was sworn in and explained this wall was ornamental landscape feature only. Further questions were asked by the Board of the use and parking in the current driveway and clarifications of use of garage.

Mr. Massett indicated it was his intent to use the left side for storage and car parking on right side.

Questions for Mr. Massett on testimony – None

Mr. Stockton reopened for Statements from the public:

Ms. McMullan, 19 Ocean Street, offered pictures into evidence which Mr. Baxter identified as the large picture photo noted as Exhibit 03 and a picture with a van as Exhibit 04. Ms. McMullan sited that in these pictures there are commercial vehicles parked over night at top of current driveway and the owner has testified to garage use for storage and therefore, reaffirms her concern of the applicant's intent to run a business from home. Ms. McMullan read her testimony of opposition siting: depreciation value, cite visibility inhibiting view, commercial business in residential area, narrow roadway with additional vehicles from business, fire codes for additional building, easement from both driveways owned by Lighthouse agreement, etc.

Mr. Stockton asked for any questions of this neighbor or any additional questions from Public: None

Mr. Alfieri called Mr. Massett, owner of property up to address concerns of Ms. McMullan confirming intent of use of property for commercial use, his profession and clarification of vehicles in photos. Mr. Alfieri summarized the intent and purpose of this application asking for Board approval.

Mr. Stockton asked for any comments from the Board to which Mr. Gallagher expressed concern regarding the retain wall and the questionable use, Mr. Nolan agreed, Mayor O'Neil expressed misunderstanding of why retaining wall is an issue, Mr. Stockton stated his thoughts of the off-street parking versus parking in the garage, Mr. Francy felt the plan was an innovative use of space and Councilman Braswell expressed his reasons that the garage would be a value.

Motion to move application: offered by Mr. Francy and second Mr. Colby

Roll Call:

AYE: Mayor O'Neil, Chief Burton, Councilman Braswell, Mr. Colby, Mr. Francy, Mr. Knox and Mr. Stockton

NAY: Mr. Gallagher and Mr. Nolan

Motion carries, Resolution for approval at September 6 meeting.

Approval of Resolutions:

- 1) **2018-02 Ruby, 7 Marine Place – Denial** Minor Subdivision, Bulk Variance to construct three single family dwellings on newly created lots.

Motion offered: Mr. Gallagher, second Mr. Knox

Roll Call:

AYE: Mayor O’Neil, Chief Burton, Mr. Braswell, Mr. Colby, Mr. Francy, Mr. Gallagher, Mr. Knox, Mr. Nolan

NAY: Non

ABSTAIN: Mr. Stockton

Action on Other Business:

- 1) **JIF Insurance Presentation to Board:** Scheduled for September 6, 2018 in Executive Session at 6:30
- 2) **Amended Completeness process and check list review for site plan and variance applications** – Scheduled for September 6, 2018 meeting

Approval of Minutes of March 14, 2018

Motion offered: by Mr. Nolan; second Mr. Francy

Roll Call:

AYE: Mayor O’Neil, Chief Burton, Councilman Braswell, Mr. Colby, Mr. Francy, Mr. Gallagher, Mr. Knox, Mr. Nolan and Mr. Stockton

NAY: None

Motion Carried

Approval of Minutes of July 11 2018

Motion offered: Mr. Knox, second Mr. Nolan

Roll Call:

AYE: Mayor O'Neil, Chief Burton, Councilman Braswell, Mr. Francy, Mr. Gallagher, Mr. Knox, Mr. Montecalvo, Mr. Nolan and Mr. Stockton

NAY: None

ABSTAIN: Mr. Colby

Communication and Vouchers:

Approval of invoices for Mr. Serpico, Esq

Motion to Adjourn: offered Mr. Gallagher, second unanimous

Adjourn: 11:17pm

A handwritten signature in blue ink that reads "Nancy O'Neil". The signature is written in a cursive, flowing style.

Nancy O'Neil, Board Secretary