

**Borough of Highlands**  
**Planning Board (Land Use Board)**  
**Regular Meeting**  
**August 09th, 2017**

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

Mr. Stockton called the meeting to order at 7:30 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 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:** Mr. O'Neil (arrived at 7:34 pm), Mr. Gallagher, Mr. Knox, Mr. Francy, Mr. Braswell (arrived at 7:50 pm), Mr. Stockton, Mr. Nolan, Ms. Ryan, Mr. Lee,

**Absent:** Mr. Card, Mr. Colby,

***Open for Public Comments:*** None

***Motion for adjournment and any other motions:*** None

***Applications scheduled for competes review:***

**2017-10 Bay Ave. Towers, INC 242 Bay Ave** – Site Plan Approval to reconstruct the structure as a three-story Mixed Use residential and commercial building. The Applicant is proposing to construct commercial/residential structure. The current building consists of two story mixed use. Both units are currently vacant. The applicant is in a process of acquiring Holly Street from the township to provide for more off street parking.

The Board had questions about the conflict engineer- Joe May. The Members stated that he is the Board's conflict engineer and that he cannot represent the applicant unless the Applicant provides proof of:

- ✓ Joe May does not work for East Point Engineering,
- ✓ Comply with Review T&M Associates letter,
- ✓ Start the process of purchasing a Holly St,

Mr. Nolan made a motion to deem the application complete (with conditions)and schedule it for October 11th agenda, seconded by Mr. Francy.

Roll Call:

Mr. O'Neil, Mr. Gallagher, Mr. Fracy, Mr. Stockton, Ms. Ryan, Mr. Nolan, Mr. Lee.

ABST: Mr. Knox, Mr. Braswell.

***New Business:***

**2016-13 Freglette, 210 Bay Ave** – Use Variance for two residential apartments on a second floor and parking garage on a first floor.

Mr. Gallagher made a motion to adjourn the application to September 13<sup>th</sup> meeting, seconded by Mr. Nolan.

Roll Call:

Mr. O'Neil, Mr. Gallagher, Mr. Fracy, Mr. Stockton, Ms. Ryan, Mr. Nolan, Mr. Lee.

ABST: Mr. Knox, Mr. Braswell.

2017-09 Ken Ruby Jr. Enterprises INC, 34 North Street. –Minor Subdivision and Bulk Variance to construct two new single family dwellings.

Mr. Nolan made a motion to adjourn the application to September 13<sup>th</sup> meeting, seconded by Mr. Gallagher.

Roll Call:

Mr. O'Neil, Mr. Gallagher, Mr. Fracy, Mr. Stockton, Ms. Ryan, Mr. Nolan, Mr. Lee, Mr. Knox,

ABST: Mr. Braswell.

Michael & Jacklyn Walsh, 57 Shrewsbury Ave – Appeal of the Zoning Officer's decision of having the applicant submit a Variance application for a new single family dwelling.

The Applicant is appealing Zoning Officer's decision that a Variance is needed because, by zoning definition, a house was removed and it has lost its pre-existing non-conforming status. The Board has to determine: if the Zoning Officer was correct in making the determination and sending the letter of denial to the applicant requesting a variance application to be filled with the Board, or overturn the Zoning Officer's decision and grant the applicant the appeal to proceed with construction without filling a format application for the variances.

Dale Leubner, the Borough's Zoning Officer, was sworn in at 8:03 pm and presented his testimony. He stated that Mr. Walsh came to his office to acquire a zoning approval for an elevation, with small addition, and flood approval for his single family dwelling located at 57 Shrewsbury Ave. He was granted the both approvals. Few weeks later, Mr. Leubner received a complaint that the house was almost completely removed and new was being built in its place. As the Borough's Zoning Officer, he went out to the field to investigate. Upon arrival at the site he had notices that most of the structure was removed except for two walls. He then called the homeowner and told him that now the structure does not meet the qualifications of an elevation, but a new construction, and thus need variances. Moreover, the Building Sub-Code Official was notified of the same, but told the homeowner that he may proceed with the work. Mr. Leubner then pointed out that the Ord#013-30 (21-98c) *if the restoration assessment of the structure exceeds the value of the structure, this it is a new house*. That is why he had issued the letter of denial and sent the applicant to the Board for variance.

Jacklyn Walsh and Michael Walsh were sworn in and presented their testimony. The Owners stated that during the elevation phase, after all the sheetrock and insulation was removed, they have discovered that the house at some point in the past have caught on fire and all the main beams rather than being replaced were just supported by 2x4s and covered up. Moreover, their Architect would not give them certification that adding another floor would be supported by the charred wood and thus, a costly decision was made, to remove and replace the walls in order to proceed with the construction. At the same time the Construction Official was notified about the findings. His response was to continue with the work and document, by taking pictures, every step of the re-construction.

Galavano Michael, the contractor, was sworn in at 8:23 pm and presented his testimony. He concurred with the owner's earlier testimony that after demolition he had found several walls that had extensive

fire damage that need to be addressed before the work can resume. Moreover, he had reached out the Architect and Construction Official at the same time to make them aware about the discovery. He was told to proceed with work and take pictures for proof.

The Board took 5 minutes recess brake.

A-1; Photo Board – group of 12 photos,

Roll call after the brake:

Mr. O’Neil, Mr. Gallagher, Mr. Knox, Mr. Francy, Mr. Stockton, Ms. Ryan, Mr. Nolan, Mr. Lee.

Domenic Mocoluso, the Architect, was sworn in at 8:37 pm and presented his testimony. He testified that in his professional opinion, because of the damage caused by fire, the walls were too far gone and needed to be replaced in order to support another story.

*Questions from the Board:*

Q: Did you speak to the Borough’s Construction Official?

A: No, I did not. The Homeowner and the Contactor did.

Q: Was a stop work order ever issued?

A: No. On the contrary, we had a verbal OK to continue with work.

Q: How did you get your zoning approval?

A: We were planning to elevate, with small addition, the house until the fire damage was discovered.

Q: The Ord. states that 100 percent of the structure was removed, thus variance is required.

A: Yes, that is correct, but I do not agree with the Borough’s definition of “new structure”.

Q: Can you put a second floor with the charred walls?

A: No, I cannot.

*Statements from the Public:*

Dan Shileds stated that Mr. Walsh took an unsafe condition and correct it by making a safe one.

*Statements from the Board:*

This is not a zoning but rather a construction issue. The Board does not found a need for the Applicant to come back for a formal hearing and thus granted the appeal.

Mr. Gallagher made a motion to grant the appeal, seconded by Mr. Nolan.

Roll Call:

YES: Mr. O’Neil, Mr. Gallagher, Mr. Knox, Mr. Fracy, Mr. Stockton, Ms. Ryan, Mr. Nolan, Mr. Lee,

NO: Mr. Braswell.

*Mr. Knox stepped down at 8:52 pm.*

2017-07 Ruby, 226 Bay Ave – Bulk Variance to build a covered porch on the front of the house. The Applicant is proposing to build a covered porch on the front of the house for static reasons. He has construction and zoning approvals for a new single family structure, but the porch is exceeding his lot coverage and Variance is required.

Chris Ruby, the Contractor.

Arjica is the Owner of the property,

Hilliard is the principle contractor.

Vikan Arun was sworn in at 8:56 pm. The Owner has given an authorization to Chris Ruby to fill out the application.

Q: Is there a structure being currently build?

A: Yes, it is.

Q: Is a new Single Family Dwelling?

A: Yes, that is correct.

Q: Is the house completed?

A: No, it's been framed and has a roof.

Q: What are you seeking?

A: A variance for lot coverage because of the covered front porch.

Q: Why are you proposing a covered porch?

A: To make the front house appearance more beautiful.

Q: Any deterrents to the proposed addition?

A: It will raise the property value.

Q: Where are the stairs going?

A: Straight down.

Q: The site plan matches with architectural drawings?

A: Yes.

Q: Comply with T&M Associates review letter.

A: Yes, we will.

Mr. Nolan made a motion to approve the application, seconded by Ms. Ryan.

Roll Call:

Mr. O'Neil, Mr. Gallagher, Mr. Fracy, Mr. Stockton, Ms. Ryan, Mr. Nolan, Mr. Lee, Mr. Braswell,

ABST: None

2017-08 Ruby, 61 Fourth St. – Bulk Variance to build a covered porch on the front of the house. This application is very similar to the one proposed at 226 Bay Ave. The Applicant is proposing to build a covered porch on the front of the house for static reasons. The existing house is being demolished and new structure rebuild with enclosed front porch.

Chris Ruby – Contractor.

Vikan Arun – The owner of the property.

Q: Is it beneficial to the neighborhood?

A: Yes it is.

*Questions from the Public:*

Kathy Dupon, resident of 55 4<sup>th</sup> St, stated that her friend that lives in Florida was not notified of the meeting.

The Board Attorney and Secretary both confirmed that a notice was mailed out.

Mr. Gallagher made a motion to approve the application, seconded by Mr. Francy.

Roll Call:

Mr. O'Neil, Mr. Gallagher, Mr. Fracy, Mr. Stockton, Ms. Ryan, Mr. Nolan, Mr. Lee, Mr. Braswell,

ABST: None

(9) Approval of Resolutions:

2017-05 Rosa, 66 Highway 36 – Minor Subdivision. The Board had asked if the resolution can be amended to state: add a marker 15 ft. from top of the slop during construction.

Mr. Gallagher made a motion to approve the resolution with amendment, seconded by Mr. Nolan.

Roll Call:

Mr. O'Neil, Mr. Gallagher, Mr. Fracy, Ms. Ryan, Mr. Nolan, Mr. Lee,

ABST: Mr. Stockton, Mr. Braswell,

2017-04 Fers, Cedar Street – Bulk Variance to construct a new single family dwelling with a driveway.

Mr. Gallagher made a motion to approve the resolution with amendment, seconded by Mr. Nolan.

Roll Call:

Mr. O'Neil, Mr. Gallagher, Mr. Fracy, Ms. Ryan, Mr. Nolan, Mr. Lee, Mr. Braswell,

ABST: Mr. Stockton,

(10) Unfinished or Adjourned Hearings:

- Discussion on RFPs notice.

Mr. O'Neil made a motion to go into executive session to discuss RFPs, seconded by Mr. Nolan.

Roll Call:

Mr. O'Neil, Mr. Gallagher, Mr. Fracy, Mr. Stockton, Ms. Ryan, Mr. Nolan, Mr. Lee, Mr. Braswell,

Ms. Ryan made a motion to end the executive session, seconded by Mr. Nolan.

Roll Call:

M. O'Neil, Mr. Gallagher, Mr. Fracy, Mr. Stockton, Ms. Ryan, Mr. Nolan, Mr. Lee, Mr. Braswell,

The Board had appointed sub-committee to conduct the interviews:

- ✓ Ms. Ryan,
- ✓ Mr. Francy,
- ✓ Mr. Nolan,
- ✓ Mr. Gallagher.

Mr. Stockton made a motion to conduct the interviews, seconded by Mr. O'Neil.

Roll Call:

M. O'Neil, Mr. Gallagher, Mr. Fracy, Mr. Stockton, Ms. Ryan, Mr. Nolan, Mr. Lee, Mr. Braswell,

Ms. Ryan made a motion to send a letter to Mayor and Council to approve the budget for the study/RFPs, seconded by Mr. Nolan.

Roll Call:

Mr. Gallagher, Mr. Fracy, Mr. Stockton, Ms. Ryan, Mr. Nolan, Mr. Lee, Mr. Braswell,

ABST: Mr. O'Neil.

(13) Approval of the minutes: May 10<sup>th</sup>,

Mr. Francy made a motion to approve the minutes, seconded by Mr. Nolan.

Roll Call:

Mr. Gallagher, Mr. Fracy, Mr. Stockton, Ms. Ryan, Mr. Nolan, Mr. Lee, Mr. Braswell,

ABST: Mr. O'Neil.

The Board Secretary read a letter of resignation from Mr. Fox.

***Adjournment:***

Mr. Nolan offered the motion for an adjournment, seconded by Ms. Ryan. All were in favor.

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Kathy Burgess, Board Secretary