

**LAND USE BOARD
BOROUGH OF HIGHLANDS
SEPTEMBER 6, 2018**

Regular Meeting: 7:41 pm

Meeting Location: Henry Hudson Regional High School, 1 Grand Tour, Highlands NJ

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

Mr. Baxter read resolution to enter Executive Session; motion to enter Executive Session: Offered Mr. Gallagher, second Mr. Nolan – voice vote, all in favor

Executive Session: JIF Insurance Presentation 6:41

Motion to end Executive Session: Offered Mr. Nolan, second Mr. Gallagher – voice vote, all in favor

Executive Session Adjourn: 7:29

Call To Order : 7:41

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 bulletin board. Formal Action will be taken.

Introduction and Swearing In of New Board Members:

Mr. Baxter explained that the Mayor had appointed two new members to the Highlands Land Use Board, Mr. Bruce Kutosh, Alternate III and Jennifer Compangni, Alternate IV. Each were sworn in.

Roll Call:

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

Absent: None

Public Comments:

Mr. Stockton reminded the Public that this Board is a quasi-judicial system in which order must be followed and as such, respect and decorum must be had at all times. Request for general questions. Someone asked to assure proper volume to be heard and another for additional agendas for future meetings.

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Approval of Resolutions:

- 1) Appointment of New Conflict Engineer for 2018-03 Polaris Retreat LLC, 181 Bay Avenue, Mr. David Hoder, Hoder Associates**

Motion Offered Approve: Mr. Gallagher, second Mr. Nolan

Roll Call:

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

NAY: None

ABSTAIN: Chief Burton, Mr. Braswell

- 2) 2018-04 17 Ocean Street – Construct a Garage for Off-Street Parking**

Motion Offered Approve: Mr. Nolan, second Mr. Knox

Mr. Stockton mentioned to the Board members that there was a new set of plans in their packets; however, they are just resolution compliance plans only.

Roll Call:

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

NAY: None

ABSTAIN: None

Approval of Meeting Minutes: August 8, 2018

Motion Offered to Approve: Mr. Nolan, second Mayor O'Neil

Roll Call:

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

NAY: NONE

ABSTAIN: None

Motions for Adjournment and Any Other Motions: None

Applications Scheduled for Completeness Review: None

Hearing on New Business:

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

Mr. Stockton recused himself as noted in prior hearing and handed gavel over to Vice Chairman, Mr. Nolan.

Mr. Baxter reviewed the Notice records and found them in order, however, he noted that the notice in paper has relief being sought for the building coverage and side yard setback only. He explained that these were the only variances the Board would be allowed to vote on. Discussion was had on the fact that there was a total of five (5) variances needed; three new and two were pre-existing and only two of the three were noticed. Building cover and side yard setback are in noticing; however, lot area and lot frontage and front yard setback were not noticed. As a result, it was determined and agreed by all that the file could not be heard at this time and must be re-

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noticed. The applicant was told they would be heard first at the next meeting in the essence of time.

Motion Offered to Move Hearing to Next Meeting: Offered by Mr. Nolan, second Mayor O'Neil

Roll Call:

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

NAY: None

ABSTAIN: None

The chairman returned to the table and all those previously recused from the next file, 2018-03 Polaris Retreat, LLC, 181 Bay Avenue left the room.

2) 2018-03 Polaris Reteat, LLC, 181 Bay Avenue – Minor Site Plan & Non-Permitted Use in Zone

Mr. Stockton explained the reasoning of members that have recused themselves as the Land Use Board is a combination of a Planning and Zoning Board and as such, in case of Use Variance, Class I & II are not allowed to sit for such files.

Roll Call:

Present: Mr. Francy, Mr. Gallagher, Mr. Knox, Mr. Lee, Mr. Nolan, Mr. Stockton, Mr. Kutosh, Ms. Compagni

It was confirmed there were eight eligible Board members making file ready to be heard. One house keeping issue relates to at July 11 meeting a motion was made to deem this application complete and it did pass. In order to ratify motion to deem application complete, Mr. Baxter recommended this be offered again. Mr. Francy asked for clarification if this would change the 120-day point to which Mr. Baxter said no and an explanation was offered indicating there was question raised about previous vote versus later recusing members. It was determined this would offer confirmation of vote.

Motion Offered: Mr. Nolan, second Mr. Knox

Roll Call:

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

NAY: None

ABSTAIN: Ms. Compagni*

*initial vote yes; then requested to abstain

Mr. Baxter informed the Board of something that was brought to his attention by one of the Board members, Mr. Lee. Mr. Baxter re-introduced Mr. Hoder as the engineer for this file. Mr. Baxter stated that there is a General Ordinance equivalent to a Police Ordinance which speaks to whether this type of Use can be in our town. The General Ordinance 3-24 in question is entitled Regulations Pertaining to Business, Rehabilitation Facilities or Clubs. Mr. Baxter brought this to Mr. Lott's attention previously and explained this does not affect whether or not the case moves forward, it is whether or not anything the Board does has any legal effect on the outcome. The determination as to whether they want to move forward is up to Mr. Lott and his client.

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Discussion continued among Board members of the pros and cons of continuing the Hearing for this case. The Board asked Mr. Baxter to further study and research the Ordinance and advise. Mr. Lott stated that his position and the position of his client is to move forward with this file and that an extension of time would not be given should this create a timing issue. Mr. Lott explained that he was just made aware of this ordinance and too will be researching this further but did not want to delay the Hearing.

Motion offered: Mr. Gallagher to have a special meeting week of 9/10/18 after council has had an opportunity to research Ordinance and advise Board on recommendation to continue Hearing; second Mr. Nolan

Mr. Lott requested a brief recess to consult with his client and the three experts that travelled to testify this evening to determine if they would be available next week to attend the special meeting. A five-minute recess was had.

Roll Call:

Present: Mr. Francy, Mr. Gallagher, Mr. Knox, Mr. Lee, Mr. Nolan, Mr. Stockton, Mr. Kutosh, Ms. Compagni

Absent: None

Roll Call Motion for Special Meeting:

AYE: Mr. Knox, Mr. Nolan

NAY: Mr. Gallagher, Mr. Francy, Mr. Lee, Mr. Stockton and Mr. Kutosh

ABSTAIN: None

Motion to postpone the Hearing on this file until after special meeting next week after investigation complete into Ordinance in question resolved was denied.

Mr. Baxter began the Hearing by re-defining the exhibits and their numbering to date. Mr. Lott concurred with the listed exhibits.

Request for motion of these exhibits requested by Mr. Lott. Mr. Baxter stated A2-A13 and B2 and B3 were appropriate at this time to motion. Motion offered by Mr. Gallagher, second Mr. Nolan and voice vote all approved.

Mr. Lott stated he had one more procedural item before proceeding which was for the Board to issue a subpoena to the composition of the objector group formed in opposition of the application. Mr. Baxter explained he spoke to both Mr. Lott and Mr. Kwasnik prior to this meeting and that Mr. Lott's position is that he has the right to know who Mr. Kwasnik is representing because as previously explained, anyone he represents cannot ask questions during testimony that all retainers must speak through the attorney. Mr. Kwasnik stated he represents Mr. Wells only to which Mr. Baxter asked to clarify on record who his clients are. Mr. Kwasnik confirmed his client is Mr. Wells only. Discussion continued on whether all contributors to the HAC committee which Mr. Wells formed are members of the committee and therefore, a client of Mr. Kwasnik.

Mr. Stockton stated that the subpoena was not necessary as all parties were present and clients of Mr. Kwasnik are on official record. Mr. Lott asked that his letter to Mr. Baxter requesting this subpoena be entered into evidence. The letter was marked as A24.

It was agreed that a certification letter in lieu of subpoena defining membership, contributors, bi-laws, and meeting minutes of the HAC committee would be acceptable by Mr. Lott. Mr. Lott

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agreed to hold off at this time for information on the Go Get Funding until the certification letter is received.

Mr. Stockton clarified the time left for this meeting to which Mr. Lott stated that at this time, he would present a short opening statement and one witness needing approximately 45 minutes not to exceed 10:30.

Mr. Lott described the intent of this application, the statistic supporting the need for this facility and an overview of the facility. Mr. Lott then called his first witness, Dr. Jeffery A. Berman, Md., 1296 Pennington Rd., Teaneck, NJ. Dr. Berman began with a full disclosure of his credentials and experiences.

Mr. Lee voiced a concern that both he and Dr. Berman had the same employer. After discussion, all attorneys agreed there was no concern of conflict since neither gentleman knew each other and did not work together directly, there was really no clear conflict.

Dr. Berman then reviewed and highlighted details of various exhibits indicating the types and statistics of addictions and the types of and stages of various treatment centers available for treatment of these addictions. Board members questioned details on the addictions themselves, treatments, comparison of existing facilities both esthetically and the comparison of demographics as it relates to the proposed application of this file.

Motion to carry this file to next meeting, October 4, 7:30pm at Henry Hudson Regional offered by

Action on Any Other Business:

- 1) Check List for Site Plan and Variance Applications – moved to next meeting

Communication/Vouchers:

- 1) Approval Invoices T&M Associates – Approved by Mr. Stockton
- 2) Approval Invoices Greg Baxter, Esq. – Approved by Mr. Stockton

Motion to adjourn: Offered Mr. Gallagher, second Mr. Nolan, voice vote – all in favor.

Meeting adjourned: 11:09