

Borough of Highlands  
Planning Board (Land Use Board)  
Special Meeting  
September 27th, 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. Gallagher, Mr. Knox, Mr. Colby, Mr. Francy, Mr. Braswell, Mr. Stockton, Mr. Nolan, Mr. Lee,

Absent: Mr. O'Neil, Mr. Card, Ms. Ryan,

**Open for Public Comments:** None

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

**Applications scheduled for competes review:** None

**New Business:**

Michael & Lilibeth Napolitano, 180 Navesink Ave - Appeal of the Zoning Officer's decision of having the applicant submit a Variance application for a new single family dwelling.

A-1; Packet of photographs,

B-2; Photo copy of Ms. Franko Foundation,

The Applicant is appealing Zoning Officer's decision that a Variance is needed because, by zoning definition, the most of the house was removed and it (the house) 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, or overturn the Zoning Officer's decision and grant the applicant the appeal to proceed with construction without filling a formal application for the variances.

Anthony Marucci & Michael Napolitano were sworn in at 7:34 pm and presented their testimony. Mr. Napolitano has purchased the property last year in a dilapidated state, and below the market value. He then applied for a zoning and construction permits at 19 Bay Ave and received approvals for both. In the process of re-construction, he submitted a set of revised plans to Construction Official, but not the Zoning Official. Since both Officials are sharing the same office, he was under the impression that Mr. Leubner has seen, and approved, the revised plans.

Questions from the Board:

Q: When you submitted the revised plans, were you able to proceed with the work on a foundation and did you called in for inspections?

A: Yes, I have had inspections completed and approved by the township's inspector.

Q: What document did you receive that led you believe that the permit was no longer valid?

A: I have received a letter of denial from the Zoning Officer dated August 25, 2017.

Q: Do you have a copy of your original zoning approval?

A: No. I do not have it on paper, but I have received it an approval via email.

Q: The reason you have gotten a denial letter is because too much of the foundation was removed?

A: Yes, that is correct.

Mr. Marucci stated that the original survey and plot plan was prepared by an architect to rebuild an existing foundation, one wall a time. The same house is being reconstructed with pre-existing non-conforming setbacks. Additionally, all the above grade work is consistent and in compliance with the blueprints. Moreover, the house cannot be moved, to conform with the setback, because of its proximity to Highway 36.

Dale Leubner, the Borough's Zoning Officer, was sworn in at 8:01 pm and presented his testimony.

Paul Vitale, Building, Electric, and Construction Official, was sworn in at 8:01 pm.

The Zoning Official stated that the original application came in on or about November 15, 2016. On November 22, 2016 the application was approved. He recalls having a conversation with Mr. Napolitano stating that is the house was ought to be removed, it would lose the pre-existing, non-conforming status and he would have to go to the Board. Mr. Napolitano did not mention anything about the fact that he is proposing to put a new foundation. In July, he received a phone call from a neighbor stating that the entire structure was removed and the owner exceeded the scope of the work. He then went to the site and had noticed that the work that was being done did not match with the plans that were previously submitted and approved. He then issued a denial letter on or about August 25, 2017 sending Mr. Napolitano to the Board for Variances.

The Construction Official testified that since the prior approvals were met and approved, he issued a construction permit for Mr. Napolitano's project. He then came in to fix the same wall that was there when he purchased the property. He did not move or extended any walls. The original plans that were approved were still being fallowed; therefore, no stop work order was issued. When he learned about the zoning issues, and possibility of going for Variances, he told Mr. Napolitano to proceed with the work at his own risk.

Mr. Francy offered a motion to grant the appeal, seconded by Mr. Knox.

**Roll Call Vote:**

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

NAY: Mr. Braswell,

**2017-06 Navesink Avenue Properties LLC, 187 Navesink Ave** – (Carried from September 13<sup>th</sup> meeting) Preliminary & Final Site Plan, Use "d" Variance, and Bulk Variance to demolish existing structure and construct one building, containing ten apartments.

Mr. Braswell and Mr. Nolan were both supplied, and listened to, CDs of the missed meetings; therefore, they may vote on the application.

A-17; Plans prepared by Catherine Franco: A-5, A-6, A-7.

Richard Milarki was sworn in at 8:58 pm and continued with presenting his testimony. He had discussed the results of a traffic report with the Board's Engineer.

*Questions from the Board:*

Q: What would happen if you reduced the number of units?

A: It would not be feasible from the business standards.

Statements from the Public:

Barbara White, 171 Highland Ave stated that making a profit is not sufficient to justify a "d" Variance. The parking is deficient. She also doubts that the number (10 units) of the proposed units would be beneficial to the neighborhood, and the insufficient number off street parking is going to create more problems.

0-1; 11 pictures taken by Barbara White,

The project is being proposed on a corner of Valley and Highland Ave that it is an extremely busy part of the town. The parking is limited. The future occupants would have to park their cars on the street and that would limit the number of off-street parking for the existing property owners/tenants.

Pamela Brainn, 97 Valley Ave wanted to know how many existing structures are currently located on the subject property?

The response was four units.

Ms. Brainn concern is that new tenants will not be parking in the assigned area and the off-street parking, that is already limited, will diminish for the existing residents.

The Applicant responded that, as it stands right now, each of his current tenants have only one car. Most of the people that are living in the units are occupied by women, and none of them drives a truck.

Brainn Gary, 97 Valley Ave, stated that there is a white truck parked on the street that belongs to one of the tenants. It creates lots of problems and it does not belong on that street.

Ms. Brainn, added that she had noticed the owner of the large truck entering one the units on the first floor of the apartment complex.

Dona Snyder, 155 Highland Ave, pointed out that some of the houses on the street have no driveways and thus they are strictly relaying on the on street parking spots. Now that is being jeopardized by the number of units that the applicant is proposing to build. She also noticed that most of the current tenants do not using the driveway, they prefer to park on the street.

Mr. Nolan offered a motion to deny the application, seconded by Mr. Francy.

**Roll Call Vote:**

AYE: Mr. Braswell, Mr. Knox, Mr. Colby, Mr. Francy, Mr. Stockton, Mr. Nolan, Mr. Lee,

NAY: Mr. Gallagher,

(10) Unfinished or Adjourned Hearings: None

**Adjournment:**

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

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Kathy Burgess, Board Secretary