

**Borough of Highlands
September 2, 2021 Regular Meeting Minutes**

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

Chair Knox called the meeting to order at 7:30pm.
Chair Knox asked all to stand for the Pledge of Allegiance.

Chair Knox read the following statement: As per requirement, notice is hereby given that this is an Abbreviated 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.

ROLL CALL:

Present: Mayor Broullon, Chief Burton, Mr. Kutosh, Mr. Montecalvo, Ms. Chang, Chair Knox
Absent: Ms. LaRussa, Mr. Lee, Councilmember Martin, Ms. Pendleton, Ms. Walsh, Ms. Nash,
Vice Chair Tierney

Also Present: Board Attorney Dustin Glass
Board Engineer Greg Gitto

OPEN FOR PUBLIC COMMENTS: None

ACTION ON OTHER BUSINESS: None

RESOLUTIONS:

1. Resolution 2021-21 Redevelopment Study

Steve Solop, 205 Bay Ave, questioned the description of his property in the study. Dustin Glass stated that the Board is not authorized to make any changes and that it was not a function of the Board.

Due to the importance of the matter and the number of absent members and recused members, Mr. Kutosh motioned for the matter to be carried to October 7th meeting.

Offered by: Mr. Kutosh

Seconded by: Ms. Chang

Ayes: Mr. Kutosh, Ms. Chang

Nays:

Recused: Mayor Broullon, Chief Burton, Mr. Montecalvo, Chair Knox

Absent: Ms. LaRussa, Mr. Lee, Councilmember Martin, Ms. Pendleton, Ms. Walsh, Ms. Nash,
Vice Chair Tierney

2. Resolution 2021-22 LUB2019-12: 5 Lighthouse Rd, B19 L16.02, Whitfield

BOROUGH OF HIGHLANDS
COUNTY OF MONMOUTH

LAND USE BOARD RESOLUTION 2021-22
RESOLUTION OF MEMORIALIZATION
MINOR SUBDIVISION APPROVAL
WITH ANCILLARY VARIANCE RELIEF

Approved: August 5, 2021
Memorialized: September 2, 2021

IN THE MATTER OF WHITFIELD
APPLICATION NO. LUB2019-12

WHEREAS, an application for minor subdivision approval with ancillary variance relief has been made to the Highlands Land Use Board (hereinafter referred to as the “Board”) by John Whitfield, David Whitfield, Mike Whitfield, and Deborah Lenig (hereinafter referred to as the “Applicants”) on lands known and designated as Block 19, Lot 16.02, as depicted on the Tax Map of the Borough of Highlands (hereinafter “Borough”), and more commonly known as 5 Lighthouse Road in the R-1.01 (Single Family Residential) Zone; and

WHEREAS, a complete application has been filed, the fees as required by Borough Ordinance have been paid, proof of service and publication of notice as required by law has been furnished and determined to be in proper order, and it otherwise appears that the jurisdiction and powers of the Board have been properly invoked and exercised; and

WHEREAS, public hearings were held on June 3, 2021 via the Zoom platform and in-person on August 5, 2021, at which time testimony and exhibits were presented on behalf of the Applicants and all interested parties were provided with an opportunity to be heard; and

NOW, THEREFORE, does the Highlands Land Use Board make the following findings of fact and conclusions of law with regard to this application:

1. The subject Property contains .562 acres (24,498 s.f.) with 28 feet of frontage along the south side of Lighthouse Road and approximately fifty-eight (58) feet of frontage along the west side of Ocean Street within the R-1.01 (Residential) Zone district. The subject Property is currently improved with a one-story single-family dwelling serviced by municipal water and waste systems.

2. The Applicants propose to subdivide the subject Property into two (2) new lots as follows:

- Proposed Lot 16.04 will contain .135 acres (5,898 s.f.) with 58 feet of frontage along Ocean Street to be improved with a proposed 2-story, single-family dwelling.
- Proposed Lot 16.05 will contain .427 acres (18,603 s.f.) with 28 feet of frontage along Lighthouse Road and will contain the existing one-story, single-family dwelling.

June 3, 2021 Hearing

3. Counsel for the Applicants, Mathew Kalwinsky, Esq. stated that the intent of the minor subdivision is to subdivide Lot 16.02, which he characterized as oversized, into two smaller lots of differing sizes (Proposed Lot 16.04 and Proposed Lot 16.05), creating one new building lot fronting Ocean Street (Proposed Lot 16.04) to be improved with a two-story, single-family dwelling, and leaving the existing one-story single-family dwelling on Proposed Lot 16.05 fronting Lighthouse Road.

4. Mr. Kalwinsky continued that Lot 16.02 has twenty-eight (28) feet of frontage on Lighthouse Road where fifty (50) feet is required and, thus, an existing non-compliant condition exists. This non-compliant condition will persist for Proposed Lot 16.05 and, thus, he explained that the Applicants required variance relief.

5. Mr. Kalwinsky also noted that there will be no changes to the existing one-story single-family dwelling on Proposed Lot 16.05. He continued that, due to the creation of the new lot, the Applicants also required a rear-yard setback variance for Proposed Lot 16.04, between the rear property line and Proposed Lot 16.05.

6. Mr. Kalwinsky further advised that the Applicants required three (3) variances from the Borough's steep slope ordinance.

7. Michael Whitfield, one of the four owners of the subject Property, provided testimony regarding the history of the subject Property, advising that his brother and one of the Property owners, John Whitfield, currently resides onsite.

8. Mr. Whitfield further stated that the Applicants wished to subdivide their oversized lot into two separate lots, permitting the current one-story, single-family dwelling to remain on Proposed Lot 16.05 and for John Whitfield to continue to reside thereon, and to sell proposed Lot 16.04 to Peter and Theresa Manning for the construction of a proposed two-story, single-family dwelling.

9. Mr. Whitfield provided additional testimony that he had discussed the proposed subdivision with his neighbors and, based on those discussions, had revised the plans to reduce the footprint and size of the to-be-constructed home on Proposed Lot 16.04.

10. Mr. Whitfield then stipulated that the Applicants would agree to restrict the footprint of the home on Proposed Lot 16.04, with said home being no greater than thirty-one feet by thirty-eight and one-half feet (31ft. x 38 ½ft.); a minimum side yard setback on the northern property line of no less than sixteen and three-tenths feet (16.3) feet; and the height of the dwelling being no more than twenty-three (23) feet.

11. Mr. Whitfield further agreed to comply with all comments in the Board Engineer's February 20, 2020 review letter.

12. Peter Manning then testified that he is the contract-purchaser of Proposed Lot 16.04, that he has family living in the Borough, and intends on constructing a single-family home. Mr. Manning also agreed to the building restrictions for the to-be-constructed home on Proposed Lot 16.04.

13. Mr. Manning further testified about the single-family home he intends to construct on Proposed Lot 16.04, stating that the structure would be a two-story beach style cottage with three bedrooms and two and one-half bathrooms.

14. Testimony was also provided by the Applicants' Engineer and Planner, Marc Leber PE, PP, who more precisely described the application. Mr. Leber stated that the subject Property is located in the R-1.01 Zone and that the proposed, single-family residential use is permitted. He

noted that the subject Property is slightly unusual because it has frontage on two streets, with a driveway located off of Lighthouse Road.

15. Mr. Leber continued that the subject Property fronts Ocean Street and that much of that frontage is classified as a steep slope, with a grade greater than thirty-five percent (35%).

16. Mr. Leber then explained that the Applicants were seeking minor subdivision approval with ancillary bulk variance relief from minimum lot frontage, rear yard setback, and the Borough's steep slope ordinances. He added that the variance requested for minimum lot frontage is an existing condition that will continue to exist for Proposed Lot 16.05, and that the requested variance relief from the minimum rear yard setback will only affect the Applicants and the owner of Proposed Lot 16.04.

17. Mr. Leber further testified that Proposed Lot 16.05 would require a variance for minimum lot frontage because the newly-created lot would have twenty-eight (28) feet of frontage where fifty (50) feet is required. He asserted that because Lot 16.02 already has twenty-eight (28) feet of frontage on Ocean Street, granting the variance from minimum lot frontage would impose no detriment and there would not be any visually perceptible changes.

18. Mr. Leber continued that the second bulk variance required is for the rear yard setback for Proposed Lot 16.04. He testified that access to Proposed Lot 16.04 would be via Ocean Street and requires traversing a steep slope, with a grade over 35%.

19. Mr. Leber provided additional testimony that the Borough's steep slope zoning ordinance prohibits disturbing soil on steep slopes exceeding 35% in grade, disturbing soil within ten (10) feet of the toe of the slope, and locating a structure within fifteen (15) feet of the toe of the slope.

20. Mr. Leber noted that the Applicants propose disturbing the steep slope solely for the purposes of constructing a driveway. He reiterated that the driveway crosses the steep slope and would require three variances for relief from the following: disturbance of a slope over 35%, disturbance within ten (10) feet of the toe of the slope, locating a structure within fifteen (15) feet of the toe of the slope.

21. Mr. Leber discussed the proposed slope disturbance in detail, testifying that five hundred (500) square feet of Proposed Lot 16.04 would be disturbed and that driveway construction would occur by constructing a bulkhead, which allows for a more manageable driveway slope and is very common in these situations.

22. Mr. Leber continued that disturbing the steep slope would not result in any substantial detriment because the water run-off would not occur over the slope but, rather, through the driveway. He suggested that disturbing the slope is necessary to allow access to Proposed Lot 16.04 and would be *de minimis* in nature.

23. Mr. Leber then testified that the Applicants had satisfied the positive and negative criteria, opining that the application will not have a substantial detriment to the public good and will not substantially impair the intent and purpose of the zone plan and Zoning Ordinance.

24. Mr. Leber further stated that the proposal would advance the goals of municipal planning by promoting adequate light, air, and open space because the two proposed lots will still be appropriately sized, demonstrating that the Applicants are not overbuilding on the subject Property.

25. Mr. Leber offered that the application also promotes the establishment of appropriate population density concentrations that contribute to the wellbeing of the neighborhoods and preservation of the environment because the Applicants are not asking for a

higher density than is permitted in the R-1.01 Zone and the two lots conform to the dimensional requirements for building lots in the Zoning Ordinance.

26. Mr. Leber provided additional testimony that the application provides sufficient space for a variety of uses, including residential because the application does not propose a non-permitted use.

27. Mr. Leber then summarized that five variances were required; minimum frontage for Proposed Lot 16.05, minimum rear yard setback for Proposed Lot 16.04 and disturbance of a slope over 35% for Proposed Lot 16.04, disturbance within ten (10) feet of the toe of the slope for Proposed Lot 16.04, locating a structure within fifteen (15) feet of the toe of the slope for Proposed Lot 16.04.

28. Mr. Leber further testified that the Applicants would comply with the Board Engineer's February 2020 review letter and had no objection to same.

29. The Board questioned whether there is a plan for the vegetative stabilization of the steep slope. Mr. Leber responded that if the vegetation were to be disturbed, a landscaping plan could be adopted to replenish same.

30. The Board requested that the Applicants provide appropriate landscaping consistent with the neighborhood. The Applicants agreed to do so.

31. The hearing was then opened to the public at which time testimony was taken from Doug Widman, 15 Ocean Street, who asked about the location of the home to be constructed on Proposed Lot 16.04 and whether same would obstruct the view on Proposed Lot 16.05. The Applicants responded that the benefit to subdividing the subject Property outweighed the negative and the new home would have minimal effect on the views from Proposed Lot 16.05.

32. Mr. Widman asked whether there would be a rooftop deck on the dwelling at Proposed Lot 16.04. Mr. Whitfield stated that a rooftop deck was not proposed and further agreed to a deed restriction.

33. Mr. Widman then inquired whether the Board Engineer had reviewed the Applicants' revised plans. The Board Engineer stated that the Applicants' most recent plans had not yet been reviewed but that they would review revised plans upon submission of a plot plan.

34. Mr. Widman asked from where the height restriction would begin for the home on Proposed Lot 16.04. Mr. Leber responded that Borough Code defines building height and would be used for calculation purposes (i.e. average grade around the house to the midpoint of the roof). Mr. Manning indicated that the height would be similar to the existing home on Proposed Lot 16.05. Mr. Manning further agreed that he would not include large trees in any proposed Landscaping Plan.

35. Mr. Widman then inquired whether there were any concerns about water flowing off of Proposed Lot 16.04. Mr. Leber stated that there were no concerns and that the water would flow out to Ocean Street.

36. Mr. Widman also asked whether it would be difficult to enter/exit from Proposed Lot 16.04 due to the proximity to the intersection. Mr. Leber responded that it would not be.

37. Mr. Widman further questioned whether the home on Proposed Lot 16.04 would have a one or two-car garage. Mr. Manning responded that it would be a two-car garage. Mr. Leber also noted that the application complied with the parking requirements of the Residential Site Improvement Standards ("R.S.I.S").

38. Megan Eckelberry, 7 Ocean Street, asked why the home on Proposed Lot 16.04 is located in its current configuration. Mr. Leber responded that the position was selected in order to promote adequate air, light, and open space.

39. Ms. Eckelberry asserted that the current location of the home on Proposed Lot 16.04 would obstruct her views. Mr. Leber testified that based on his calculations, Ms. Eckelberry's views would not be obstructed.

40. Ms. Eckelberry testified she has concerns about the overall project and that the to-be-constructed home will obstruct her views, along with those of the other neighbors. She added that the homes on Ocean Street all have large seventy (70) foot setbacks. Mr. Leber disagreed with this statement and replied that at least four (4) homes on Ocean Street have setbacks of less than thirty (30) feet.

41. Mr. Leber offered additional testimony that the Applicants could have simply demolished the home on the existing lot and constructed a new, much larger structure. However, the Applicants have proposed a more subdued and modest project.

42. Testimony was then taken from Michael Stock, 9 Ocean Street, who stated that he had the same concerns as Ms. Eckelberry about sight lines and height restriction. He further offered that adding a driveway to Ocean Street will make the intersection at the corner more dangerous.

43. In response to testimony and questions from the public and the Board, the Applicants requested that the application be carried to a later hearing date.

August 2, 2021 Hearing

44. Counsel for the Applicants, Michael Steib, Esq. stated that based on comments made by the public and members of the Board at the June 3, 2021 hearing, the contract-purchaser (Mr. Manning) had engaged the services of Catherin Franco, PA to design the home on Proposed Lot 16.04, and prepare renderings and floor plans for the hearing.

45. Ms. Franco testified that the proposed single-family home on Proposed Lot 16.04 would be approximately two thousand and three hundred (2,300) s.f. in size, be built within the parameters agreed to by the Applicants and Mr. Manning, and be twenty-three (23) feet tall from the average grade to the mean height of the roof.

46. Ms. Franco introduced two three-dimensional renderings of the proposed home and a picture of the subject Property as it currently exists. She continued that the proposed home had been reduced in size and moved further back, compared to what was proposed in prior submitted plans.

47. The Board asked Mr. Leber to provide additional testimony as to the relief requested by the Applicants. Mr. Leber answered that the Applicants required five variances and minor subdivision approval. He also confirmed that the rear yard setback had increased slightly from the prior submitted plans.

48. The hearing was again opened to the public at which time testimony was taken from Mr. Stock, who asked the height of the home on Proposed Lot 16.04 from the top of the second floor to the peak of the roof. Ms. Franco responded that it was approximately eight (8) to ten (10) feet in height.

49. Mr. Stock also asked whether the Applicants would agree to a deed restriction as to height. Mr. Steib responded that the Applicants had agreed to a deed restriction of twenty-three (23) feet from the average grade to the mean height of the roof.

50. Patrick Kelly Dempsey, 69 Highland Avenue, expressed his support for the Applicants and the proposed subdivision and development.

51. Robert Manning, 1 Lighthouse Road, testified that Mr. Manning (the contract-purchaser) is his brother. He expressed support for the project. He provided additional testimony that although his home had a flat roof, he intended on constructing a peaked roof at some point in the future.

52. Ms. Eckelberry, provided additional testimony, reiterating that the home on Proposed Lot 16.04 would obstruct her views.

53. Mr. Steib asked Ms. Eckelberry whether she resides in the house at 7 Ocean Street full-time and whether a portion of her home is a rental unit. Ms. Eckelberry responded that she resides on the upper floors but rents out the ground floor of her home.

54. Mr. Steib questioned whether Ms. Eckelberry had attempted to purchase the subject Property. She responded in the affirmative but that she was only interested in purchasing prior to the subdivision thereof.

55. Mr. Whitfield testified that Ms. Eckelberry had previously expressed interest in purchasing the subject Property but that she wanted it subdivided with the agreed-upon deed restrictions in place.

56. There were no other members of the public expressing an interest in this application.

WHEREAS, the Highlands Land Use Board, having reviewed the proposed application and having considered the impact of the proposed application on the Borough and its residents to determine whether it is in furtherance of the Municipal Land Use Law; and having considered whether the proposal is conducive to the orderly development of the site and the general area in which it is located pursuant to the land use and zoning ordinances of the Borough of Highlands; and upon the imposition of specific conditions to be fulfilled, hereby determines that the Applicants' request for minor subdivision approval pursuant to N.J.S.A. 40:55D-47 along with ancillary variance relief pursuant to N.J.S.A. 40:55D-70c should be granted in this instance.

The Board finds that the Applicants have proposed a minor subdivision which requires bulk variance relief. The Municipal Land Use Law, at N.J.S.A. 40:55D-70c provides Boards with the power to grant variances from strict bulk and other non-use related issues when the applicant satisfies certain specific proofs which are enunciated in the Statute. Specifically, the applicant may be entitled to relief if the specific parcel is limited by exceptional narrowness, shallowness or shape. An applicant may show that exceptional topographic conditions or physical features exist which uniquely affect a specific piece of property. Further, the applicant may also supply evidence that exceptional or extraordinary circumstances exist which uniquely affect a specific piece of property or any structure lawfully existing thereon and the strict application of any regulation contained in the Zoning Ordinance would result in a peculiar and exceptional practical difficulty or exceptional and undue hardship upon the developer of that property. Additionally, under the c(2) criteria, the applicant has the option of showing that in a particular instance relating to a specific piece of property, the purpose of the act would be advanced by allowing a deviation from the Zoning Ordinance requirements and the benefits of any deviation will substantially outweigh any detriment. In those instances, a variance may be granted to allow departure from regulations adopted, pursuant to the Zoning Ordinance.

Those categories specifically enumerated above constitute the affirmative proofs necessary in order to obtain "bulk" or (c) variance relief. Finally, an applicant must also show that the proposed variance relief sought will not have a substantial detriment to the public good and, further, will not substantially impair the intent and purpose of the zone plan and Zoning Ordinance. It is only in those instances when the applicant has satisfied both these tests, that a Board, acting

pursuant to the Statute and case law, can grant relief. The burden of proof is upon the applicant to establish these criteria.

The Board finds that the Applicants have satisfied the positive criteria with regard to the previously enumerated requests for variance relief from minimum lot frontage and rear yard setback, and from the Borough's steep slope ordinance as follows: disturbance of a slope over 35%, disturbance within ten (10) feet of the toe of the slope, locating a structure within fifteen (15) feet of the toe of the slope.

The Board first addresses the testimony concerning the contract purchasers of the proposed new home and the resident of the exiting home. This information helped to provide a complete picture of the history of the application but the Board finds that the identity of the proposed and current residents is not relevant to its evaluation of the positive and negative criteria.

The Board finds that the proposed subdivision and construction of a single-family dwelling on Proposed Lot 16.04 is a permitted use in the R-1.01 zone. The Board finds that the proposed subdivision will create two lots, which are more consistent with the prevailing neighborhood scheme. The home to be constructed on Proposed Lot 16.04 would be of similar size and shape as those in the surrounding neighborhood and would be deed restricted with a maximum building footprint of no greater than thirty-one feet by thirty-eight and one-half feet (31ft. x 38 ½ ft.); a minimum side yard setback on the northern property line of no less than sixteen and three-tenths (16.3) feet; a height restriction of no more than twenty-three (23) feet, and an agreement not to construct a rooftop deck.

The Board also accepts Mr. Leber's testimony that the proposed lot coverage is similar to several other lots in the neighborhood. The proposed subdivision will further result in the construction of a new home which will be visually appealing and benefit the entire community. The Applicants also specifically redesigned the building envelope to address the concerns of neighboring property owners. This resulted in a plan which provided adequate setbacks and landscaping, and therefore promotes light, air and open space on the two proposed lots at a permitted residential density. The Board is further persuaded by Mr. Leber's testimony that the subject Property could remain "as is" and a much larger home could be constructed on the non-subdivided existing subject Property. Such a large home would be out of character with the rest of the community.

The Board also recognizes that the variance relief associated with the steep slope disturbance is limited in nature. This variance relief specifically relates solely to the construction of a new driveway. The Board finds that the driveway location is logical for the site and that complete compliance with the ordinance requirements would result in an unusual design which would not be visually appealing.

Based on the foregoing, the Board finds that the application advances the goals of the Municipal Land Use Law as enumerated at N.J.S.A. 40:55D-2. The positive criteria has therefore been satisfied.

The Board also finds that the negative criteria has been satisfied. The proposed subdivision of the existing lot into two smaller lots creates lots that are more similar to other lots in the surrounding neighborhood. The proposed development also does not violate any height requirements and therefore does not impair any view corridors. As previously stated, the proposed density also complies with Ordinance requirements. The proposed variance relief will also not create any perceptible additional traffic or noise. The Board also reiterates that the Ordinance permits a much larger out of character home to be constructed on the subject Property. The Board finds that the grant of variance relief will not result in substantial impairment to the zone plan or zoning

ordinance and will not create a substantial detriment to the public good. The Board therefore finds that the negative criteria has been satisfied.

The Board further finds that the positive criteria substantially outweighs the negative criteria and that variance relief pursuant to N.J.S.A. 40:55D-70c(2) is appropriate in this instance.

With the exception of the above relief, the Applicants have complied with all other zoning, subdivision and design criteria. The Applicants may therefore be granted minor subdivision approval pursuant to N.J.S.A. 40:55D-47.

NOW, THEREFORE, BE IT RESOLVED by the Land Use Board of the Borough of Highlands on this 2nd day of September 2021, that the action of the Land Use Board taken on August 5th, 2021 granting Application No. LUB2019-12, for minor subdivision approval pursuant to N.J.S.A. 40:55D-47 along with ancillary bulk variance relief pursuant to N.J.S.A. 40:55D-70c(2) as follows:

The application is granted subject to the following conditions:

1. All site improvement shall take place in the strict compliance with the testimony and with the plans and drawings which have been submitted to the Board with this application, or to be revised.
2. Except where specifically modified by the terms of this Resolution, the Applicants shall comply with all recommendations contained in the reports of the Board professionals.
3. The Subdivision Plat or Deed recorded memorializing this subdivision shall specifically refer to this Resolution and shall be subject to the review and approval of the Board Engineer and Board Attorney. The Applicants shall record the Subdivision Plat or Deed within 190 days of the memorializing Resolution being adopted. Failure to do so shall render this approval null and void.
4. The Applicants shall record this Resolution in the Office of the Monmouth County Clerk.
5. The Applicants shall submit a Landscaping Plan which will not include any large tree growth for Proposed Lot 16.04, consistent with the neighboring properties, subject to review and approval of the Board Engineer.
6. Any future modifications to this approved plan must be submitted to the Board for approval.
7. The Applicants shall record a deed restriction for Proposed Lot 16.04 with a maximum building footprint restriction of no greater than thirty-one feet by thirty-eight and one-half feet (31ft. x 38 ½ft.), a minimum side yard setback on the northern property line of no less than sixteen and three-tenths (16.3) feet, a height restriction of no more than twenty-three (23) feet subject to the review and approval of the Board Attorney and Board Engineer.

8. The Applicants shall execute a deed restriction prohibiting a rooftop deck subject to the review and approval of the Board Attorney and Board Engineer.
9. The steep slope variance relief is limited to the construction of the proposed driveway.
10. The Applicants shall apply for all necessary Zoning Permit(s) and Demolition Permit(s).
11. The Applicants shall provide a certificate that taxes are paid to date of approval.
12. Payment of all fees, costs, escrows due and to become due. Any monies are to be paid within twenty (20) days of said request by the Board Secretary.
13. Subject to all other applicable rules, regulations, ordinances and statutes of the Borough of Highlands, County of Monmouth, State of New Jersey or any other jurisdiction.

BE IT FURTHER RESOLVED that the Board secretary is hereby authorized and directed to cause a notice of this decision to be published in the official newspaper at the Applicants' expense and to send a certified copy of this Resolution to the Applicants and to the Borough Clerk, Engineer, Attorney and Tax Assessor, and shall make same available to all other interested parties.

Robert Knox, Chairman
Borough of Highlands Land Use Board

ON MOTION OF: Mayor Broullon

SECONDED BY: Chair Knox

ROLL CALL:

YES: Mayor Broullon, Chief Burton, Mr. Montecalvo, Chair Knox

NO:

ABSTAIN: Ms. Chang

RECUSED: Mr. Kutosh

ABSENT: Ms. LaRussa, Mr. Lee, Councilmember Martin, Ms. Pendleton, Ms. Walsh, Ms. Nash, Vice Chair Tierney

DATED: September 2, 2021

I hereby certify this to be a true and accurate copy of the Resolution adopted by the Highlands Land Use Board, Monmouth County, New Jersey at a public meeting held on September 2, 2021.

Michelle Hutchinson, Secretary
Borough of Highlands Land Use Board

BOROUGH OF HIGHLANDS LAND USE BOARD

EXHIBITS

Case No. No. LUB2019-12/ Whitfield

Minor Subdivision

August 5, 2021

September 2, 2021

- A-1 Minor Subdivision Plan prepared by Richard E. Stockton & Associates, Inc. (last revised May 19, 2021), dated July 12, 2018.
- A-2 3-D Rendering of proposed dwelling and photographs of the existing site by Catherine Franco, AIA, dated July 23, 2021.
- A-3 Minor Subdivision Application dated October 9, 2019.
- A-4 Minor Subdivision Plan prepared by Richard E. Stockton & Associates, Inc. (last revised September 10, 2020), dated July 12, 2018.
- A-5 Minor Subdivision Plan prepared by Richard E. Stockton & Associates, Inc. (last revised July 23, 2021), dated July 12, 2018.
- A-6 Architectural Plans prepared by Catherine Franco, AIA, dated July 23, 2021.

INTEROFFICE REPORTS

- B-1 Zoning Denial, dated September 11, 2019.
- B-2 Board Engineer's Review of Minor Subdivision, Plat Requirements (completeness) letter, dated November 18, 2019.
- B-3 Board Engineer's Fee and Escrow Calculation letter, dated November 18, 2019.
- B-4 Board Engineer's First Engineering Review letter, dated February 20, 2020.

3. Consideration of Resolution: LUB2020-04: 220 Navesink Ave., B120 L1 & 2- Filing Extension
Mr. Gitto summarized situation. Mr. Glass suggested extending to end of year.

Offered by: Mr. Kutosh

Seconded by: Mr. Montecalvo

Ayes: Mayor Broullon, Chief Burton, Mr. Kutosh, Mr. Montecalvo, Chair Knox

Nays:

Abstain: Ms. Chang

Absent: Ms. LaRussa, Mr. Lee, Councilmember Martin, Ms. Pendleton, Ms. Walsh, Ms. Nash,
Vice Chair Tierney

HEARINGS ON NEW BUSINESS:

1. LUB2021-03: 26 Ralph Street, Block 113 Lot 6.01, Giordano –Zoning Appeal, Variance
Mr. Glass explained that applicant asked to be carried to October 7th meeting due to prior commitment of dropping child off to college.

Offered by: Mayor Broullon

Seconded by: Mr. Kutosh

Ayes: Mayor Broullon, Chief Burton, Mr. Kutosh, Mr. Montecalvo, Ms. Chang Chair Knox

Nays:

Abstain:

Absent: Ms. LaRussa, Mr. Lee, Councilmember Martin, Ms. Pendleton, Ms. Walsh, Ms. Nash,
Vice Chair Tierney

HEARINGS ON OLD BUSINESS:

1. LUB2020-07: 9 Shrewsbury Avenue, Block 42 Lot 2, Char-Ron –Variance for SFD
Mr. Glass explained that applicant asked to be carried to October 7th meeting due their
professional not being available.

Offered by: Mr. Kutosh

Seconded by: Mr. Montecalvo

Ayes: Mayor Broullon, Mr. Kutosh, Mr. Montecalvo, Ms. Chang, Chair Knox

Nays:

Abstain: Chief Burton

Absent: Ms. LaRussa, Mr. Lee, Councilmember Martin, Ms. Pendleton, Ms. Walsh, Ms. Nash,
Vice Chair Tierney

APPROVAL OF MINUTES OF AUGUST 2, 2021 MEETING

Offered by: Mayor Broullon

Seconded by: Chair Knox

Ayes: Mayor Broullon, Chief Burton, Mr. Kutosh, Mr. Montecalvo, Chair Knox

Nays:

Ineligible: Ms. Chang

Absent: Ms. LaRussa, Mr. Lee, Councilmember Martin, Ms. Pendleton, Ms. Walsh, Ms. Nash,
Vice Chair Tierney

COMMUNICATION AND VOUCHERS

1. Approval of Invoices from T&M Associates and Weiner Law Group

PUBLIC COMMENTS

Claudette Darrigo, 12 Seadrift, inquired about process for new construction after a house has
been torn down on a non-conforming lot. Her property has an easement that neither Building
or Zoning Departments didn't know about.

Chair Knox stated that new construction would have to meet current zoning requirements and
that if a zoning denial is given, then it would come to the Land Use Board. Mr. Glass noted
that issues with Building Department should be brought up with them. Land Use and
Building are two different departments. However, if she gives us further property
information, the Board can look into it.

Ms. Darrigo asked for the policy of absenteeism of Board Members and how it affects timely
hearing of applications. Chief Burton noted that the Board is required to hear an application
within a certain amount of time. Mr. Glass add that applicants have asked for their

application to be carried. Chief Burton stated that the process and procedures have been streamlined by combining the boards.

Mary Sharkey, 68 Bay Ave., inquired if the new note on agenda about adjournment time was something adopted or if it's policy. Her concern is about residents' rights. Mr. Glass stated that the Board has discretion in setting time limit.

Ms. Sharkey asked if there are accommodations for the public who cannot attend meeting. Chair Knox and Mr. Glass answered that hybrid meetings can be very difficult logistically – sharing of exhibits, procedural issues, technology challenges, verification challenges. Recording of meeting can be OPRA'ed.

Hugh Sharkey, 68 Bay Ave., had procedural questions. Mr. Kutosh answered that if a project has no variance, it would not come in front of Land Use.

Mr. Sharkey asked whether he needs an attorney to request that the LUB2020-07: 9 Shrewsbury application be carried further to the November 4th meeting. Mr. Glass replied that he could submit request in writing to the Land Use Board.

Ms. Sharkey wanted to clarify what happens if an objector cannot be present at hearing. Mr. Glass stated that written objections can be submitted for Board to consider.

Mr. Sharkey suggested that presenting case studies of other redevelopment studies may help people better understand the benefits redevelopment may bring. Mr. Glass replied that this would be a question for Council. Mayor Broullon noted that procedure and relation of the Land Use Board and the Council.

ADJOURNMENT

Offered by: Mr. Kutosh

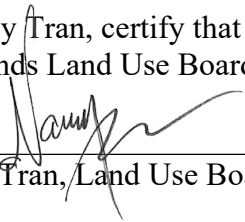
Seconded by: Mayor Broullon

All in favor

None Opposed

Adjourned at 8:31pm.

I, Nancy Tran, certify that this is a true and correct record of the actions of the Borough of Highlands Land Use Board on September 2, 2021.



Nancy Tran, Land Use Board Assistant Secretary