

**Borough of Highlands
October 7, 2021 Regular Meeting Minutes**

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

Chair Rob Knox called the meeting to order at 7:32pm.
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. Lee, Councilmember Martin, Mr. Montecalvo, Ms. Chang, Ms. Nash, Ms. Pendleton, Ms. Walsh, Vice Chair Tierney, Chair Knox
Absent: Ms. LaRussa
Also Present: Board Attorney Dustin Glass
Board Engineer Andrew Denbigh

OPEN FOR PUBLIC COMMENTS: None

ACTION ON OTHER BUSINESS: None

RESOLUTIONS:

1. Memorialization of Resolution 2021-21 Redevelopment Study
Steve Solop, 205 Bay Ave, asked which Board members were recused and which were eligible to vote.

Chair Knox turned the meeting over to Mr. Kutosh as Acting Chair.

LAND USE BOARD RESOLUTION 2021-21

**RESOLUTION OF THE LAND USE BOARD OF THE
BOROUGH OF HIGHLANDS, IN THE COUNTY OF
MONMOUTH, NEW JERSEY RECOMMENDING THAT
THE BOROUGH DESIGNATE CERTAIN PROPERTIES
WITHIN THE BOROUGH AS A NON-CONDEMNATION
REDEVELOPMENT AREA PURSUANT TO THE LOCAL
REDEVELOPMENT AND HOUSING LAW, N.J.S.A.
40A:12A-1 ET SEQ.**

Approved: August 5, 2021
Memorialized: October 7, 2021

WHEREAS, the Local Redevelopment and Housing Law, *N.J.S.A. 40A:12A-1 et seq.* (the “**Redevelopment Law**”), authorizes municipalities to determine whether certain parcels of land in the municipality constitute areas in need of redevelopment; and

WHEREAS, on June 2, 2021, by Resolution No. 21-126, and in accordance with the provisions of the Redevelopment Law, the Municipal Council (the “**Borough Council**”) of the Borough of Highlands (the “**Borough**”) authorized and directed the Land Use Board of the Borough (the “**Land Use Board**”) to conduct a preliminary investigation to determine whether all or a portion of certain properties within the Borough, commonly referred to as the Central Business District/ Bay Avenue Corridor and identified as the following blocks and lots on the tax map of the Borough (the “**Study Area**”), meets the criteria in the Redevelopment Law for designation as a non-condemnation redevelopment area, within which the Borough may use all of the powers provided by the Redevelopment Law for use in a redevelopment area except the power of eminent domain (a “**Non-Condensation Redevelopment Area**”), and to make a recommendation as to whether all or a portion of such Study Area should be designated as a Non-Condensation Redevelopment Area:

- Block 40.01, Lots 21.01, 21.02, 22.01
- Block 41, Lots 2.01, 3, 4, 5, 6, 7, 8, 9, 10, 13.01
- Block 42, Lots 1, 10, 12.01, 13, 14, 15
- Block 45, Lots 4.01, 6.01, 7
- Block 46, Lots 1, 2, 3, 4, 5, 6, 7, 8
- Block 47, Lots 6, 7, 8, 9, 10, 11, 12
- Block 52, Lots 1, 2
- Block 53, Lots 1, 2, 3, 4, 5, 6, 7, 8, 9
- Block 54, Lots 1, 3.01, 4, 5, 7.01
- Block 58, Lots 1, 3.01, 17.01, 18, 19, 20, 23.01, 24, 25, 26
- Block 59, Lots 5, 6, 8, 9, 10, 11.01, 11.02, 13.01, 14, 16.01
- Block 63, Lots 4, 5, 6, 7, 9.01, 10, 11, 13.01, 14, 15, 16, 17, 19.01
- Block 64, Lots 1, 2, 17, 18, 19, 20, 21, 22, 23, 24, 25, 28.01
- Block 69, Lots 1, 2, 4.01, 5, 6
- Block 70, Lots 1, 2, 3, 15, 16, 17
- Block 71, Lots 4, 5, 6
- Block 72, Lots 1, 2, 11.01, 12
- Block 73, Lot 2
- Block 74, Lots 1, 8.01, 9
- Block 75, Lots 1, 17, 18
- Block 80, Lots 1, 2, 20, 21, 22
- Block 81, Lots 1, 2, 10.01, 12
- Block 82, Lots 1.01, 6.01
- Block 83, Lots 1, 14
- Block 88, Lots 1.01, 2, 3, 4.01, 5
- Block 89, Lots 1, 2, 13.01
- Block 94, Lots 1, 15, 16

Block 95, Lot 1
Block 96 Lots 1, 2.01
Block 96.01, Lots 2.01, 3
Block 114, Lots 1.01, 1.02, 3.02; and

WHEREAS, the Land Use Board subsequently directed Phillips Preiss Grygiel Leheny Hughes LLC (the “**Planning Consultant**”) to conduct a preliminary investigation to determine whether all or a portion of the Study Area should be designated as a Non-Condensation Redevelopment Area; and

WHEREAS, on July 8, 2021, the Land Use Board received a report setting forth the basis for the investigation and a map depicting the Study Area prepared by the Planning Consultant, entitled *Area in Need of Redevelopment Study, Central Business District, Borough of Highlands, New Jersey*, dated July 8, 2021 (the “**Report**”), evaluating whether all or a portion of the Study Area met the criteria to be designated as a Non-Condensation Redevelopment Area; and

WHEREAS, the Redevelopment Law requires that the Land Use Board conduct a public hearing prior to making its recommendation as to whether the Study Area should be designated as a Non-Condensation Redevelopment Area, at which hearing the Land Use Board shall hear all persons who are interested in, or would be affected by, a determination that the Study Area is a Non-Condensation Redevelopment Area; and

WHEREAS, pursuant to the Redevelopment Law, the Land Use Board caused a duly noticed public hearing to be held on August 5, 2021 (the “**Hearing**”), at which it reviewed the Report, heard testimony from Paul Grygiel, AICP, PP of the Planning Consultant, and conducted a public hearing during which members of the general public were given an opportunity to present their own evidence, cross-examine the Planning Consultant, and address questions to the Land Use Board and its representatives concerning the potential designation of the Study Area as a Non-Condensation Redevelopment Area, as fully set forth on the record; and

WHEREAS, the Planning Consultant testified to the Land Use Board that to prepare the Report, he performed an analysis of the Study Area’s existing land uses, site layout, and physical characteristics, which are included in the Report. In doing so, the Planning Consultant testified that he reviewed the Borough’s tax records, aerial photographs, Master Plan and other planning documents, existing zoning ordinance and maps, zoning, health, property maintenance and related violations records, development applications and approvals, building and demolition permit activity, police activity logs, deed records, occupancy and ownership status records, and other municipal records and conducted multiple physical inspections of each property within the Study Area; and

WHEREAS, after performing the above analysis, the Planning Consultant concluded in the Report and testified to the Land Use Board at the Hearing that 120 of the 155 lots within the Study Area satisfy the criteria set forth in the Redevelopment Law for an area in need of redevelopment designation, particularly criteria “a”, “b”, “c”, and/or “d” pursuant to *N.J.S.A. 40A:12A-5* (“**Section 5**”) of the Redevelopment Law or by way of the definition of “redevelopment area” or “area in need of redevelopment” pursuant to *N.J.S.A. 40A:12A-3* (“**Section 3**”) of the Redevelopment Law; and

WHEREAS, of these 120 lots within the Study Area, the Planning Consultant concluded in the Report and testified to the Land Use Board that the following nine (9) lots satisfy criterion “a” pursuant to Section 5 of the Redevelopment Law for various reasons specific to each lot, including, but not limited to, that the generality of the buildings are substandard, unsafe,

unsanitary, dilapidated, obsolescent, or conducive to unwholesome living or working conditions because of outdated or faulty design or arrangement, poor or dilapidated building conditions, insufficient or inoperable windows, various past property maintenance violations and/or police incidents, or a combination thereof:

- Block 42, Lot 13
- Block 46, Lots 1, 6, & 7
- Block 53, Lots 3 & 4
- Block 59, Lots 8 & 16.01
- Block 64, Lot 1; and

WHEREAS, of these 120 lots within the Study Area, the Planning Consultant concluded in the Report and testified to the Land Use Board that the following three (3) lots satisfy criterion “b” pursuant to Section 5 of the Redevelopment Law for various reasons specific to each lot, including, but not limited to, that the buildings were once used for commercial, retail, shopping, office space, manufacturing, or industrial purpose and are now in a great state of disrepair or neglect to make them untenable and/or have been significantly vacant for the last two (2) or more years:

- Block 46, Lot 3
- Block 47, Lot 6
- Block 88, Lot 5; and

WHEREAS, of these 120 lots within the Study Area, the Planning Consultant concluded in the Report and testified to the Land Use Board that the following sixteen (16) lots satisfy criterion “c” pursuant to Section 5 of the Redevelopment Law for various reasons specific to each lot, including, but not limited to, that such lots are either owned by the Borough or are unimproved vacant lots that have remained as such for the last ten (10) or more years, and/or are not likely to be developed through private capital due to topographical challenges, poor site access, historical lack of development with no known future plans for same, or a combination thereof:

- Block 40.01, Lots 21.01 & 22.01
- Block 42, Lot 14
- Block 45, Lots 6.01 & 7
- Block 47, Lot 10
- Block 53, Lots 6 & 7 (studied together)
- Block 63, Lots 4, 6, & 14
- Block 64, Lot 21
- Block 72, Lot 2
- Block 88, Lot 2
- Block 94, Lot 1
- Block 96, Lot 2.01; and

WHEREAS, of these 120 lots within the Study Area, the Planning Consultant concluded in the Report and testified to the Land Use Board that the following eighty-seven (87) lots satisfy criterion “d” pursuant to Section 5 of the Redevelopment Law for various reasons specific to each lot, including, but not limited to, that because of dilapidation, obsolescence, overcrowding, faulty arrangement or design, lack of ventilation, light and sanitary facilities, excessive land coverage, deleterious land use or obsolete layout, or any combination of these or other factors, the buildings

or improvements are detrimental to the safety, health, morals, or welfare of the community. This includes that as many of these lots are located in a high-risk flood zone and as the Borough itself is particularly vulnerable to flooding, many of these lots do not provide proper stormwater management or floodproofing and present risks of physical harm, structural damage, or entrapment because of either excessive land coverage, old age of the structure, lack of elevation above base flood elevation levels, or a combination thereof. This also includes that many lots suffer from faulty site arrangement, prior police incidents, dilapidated and/or poor site conditions leading to a general sense of neglect, unpermitted uses, lack of proper parking, or a combination thereof that all detract from and/or are incompatible with developing and maintaining a vibrant and walkable downtown commercial corridor:

- Block 40.01, Lots 21.01, 21.02, & 22.01
- Block 41, Lots 2.01, 5, 6, 7, 8, & 10
- Block 42, Lots 1, 10, 12.01, 13, 14, & 15
- Block 45, Lot 4.01
- Block 46, Lots 1, 2, 3, 6, 7, & 8
- Block 47, Lots 6, 7, 8, 9, & 11
- Block 52, Lot 2
- Block 53, Lots 3, 4, 5, 8, & 9
- Block 54, Lots 1 & 4
- Block 58, Lots 17.01 & 18 (studied together), 19 & 20 (studied together), 24, & 25
- Block 59, Lots 8, 9, 11.01, 13.01, & 16.01
- Block 63, Lots 9.01, 11, 15, & 19.01
- Block 64, Lots 1, 2 & 28.01 (studied together), 17, 20, & 24
- Block 69, Lots 2 & 6.01 (Lot 6.01 was formerly known as Lots 5 & 6)
- Block 70, Lots 1, 2, 3, & 15
- Block 71, Lots 4 & 5 (studied together), & 6
- Block 72, Lots 1 & 12
- Block 74, Lots 1, 8.01, & 9
- Block 75, Lot 1
- Block 80, Lots 1, 20, 21, & 22
- Block 81, Lots 1 & 10.01
- Block 83, Lot 1 (Lot 1 was formerly known as Lots 1 & 14)
- Block 88, Lots 1.01, 4.01, & 5
- Block 89, Lots 2 & 13.01
- Block 96, Lots 1 & 3 (Block 96, Lot 3 was formerly known as Block 96.01, Lot 3); and

WHEREAS, of these 120 lots within the Study Area, the Planning Consultant concluded in the Report and testified to the Land Use Board that the following twenty (20) lots did not meet any of the criteria pursuant to Section 5 of the Redevelopment Law, but did satisfy the definition of “redevelopment area” or “area in need of redevelopment” pursuant to Section 3 of the Redevelopment Law for various reasons specific to each lot, including, but not limited to, that such lots abut other lots that satisfy criteria “a”, “b”, “c”, and/or “d” pursuant to Section 5 of the Redevelopment Law and that it would be an impediment to the redevelopment of the abutting lots and the commercial corridor as a whole if same were not included in the Non-Condensation Redevelopment Area by creating redevelopment gaps along the commercial corridor:

Block 41, Lots 3, 4, & 9
Block 54, Lot 3.01
Block 58, Lot 23.01
Block 59, Lots 5, 6 & 10 (all studied together), & 14
Block 63, Lots 5, 7, 10, & 13.01
Block 64, Lot 25
Block 69, Lot 4.01
Block 80, Lot 2
Block 81, Lots 2 & 12
Block 88, Lot 3
Block 89, Lot 1; and

WHEREAS, in concluding the Report, the Planning Consultant did not recommend that any of the following thirty-five (35) lots be designated as a Non-Condemnation Redevelopment Area:

Block 41, Lot 13.01
Block 46, Lots 4 & 5
Block 47, Lot 12
Block 52, Lot 1
Block 53, Lots 1 & 2
Block 54, Lots 5 & 7.01
Block 58, Lots 1, 3.01, & 26
Block 59, Lot 11.02
Block 63, Lots 16 & 17
Block 64, Lots 18, 19, 22, & 23
Block 69, Lot 1
Block 70, Lots 16 & 17
Block 72, Lot 11.01
Block 73, Lot 2
Block 75, Lots 17 & 18 (studied together)
Block 82, Lots 1.01 & 6.01
Block 94, Lots 15.02 & 15.03 (studied together and were formerly known as Lot 15 jointly), & 16
Block 95, Lot 1
Block 96.01, Lot 2.01
Block 114, Lots 1.01, 1.02, & 3.02 (all studied together); and

WHEREAS, the Land Use Board asked the Planning Consultant during the Hearing if the above-referenced 35 lots within the Study Area satisfy criterion “h” pursuant to Section 5 of the Redevelopment Law; and

WHEREAS, in response to the Land Use Board’s question, the Planning Consultant testified to the Land Use Board at the Hearing that these 35 lots did satisfy criterion “h” pursuant to Section 5 of the Redevelopment Law because: (1) the entire Study Area is within Smart Growth Metropolitan Planning Area 1 of the New Jersey State Planning Commission’s State Development and Redevelopment Plan, which is an area in which development or redevelopment is to be encouraged; (2) the Borough made a prior policy decision to apply to the New Jersey State

Planning Commission for such designation; and (3) various Borough planning and zoning documents referred to in the Report make reference to smart growth planning principles within the Study Area; and

WHEREAS, during the Hearing, the Land Use Board heard an objection from the owner of Block 53, Lot 3 as to the application of the “a” criterion of Section 5 of the Redevelopment Law to their property; and

WHEREAS, at the conclusion of the Hearing, after reviewing the Report and hearing all of the evidence, testimony from the public, and expert testimony, based on the reasons set forth in the Report and on the record as further described herein, including the testimony of the Planning Consultant as to criterion “h” of Section 5 of the Redevelopment Law, the Land Use Board: (1) voted to recommend that all of the lots within the Study Area be designated as a Non-Condensation Redevelopment Area; and (2) as set forth in the record, in response to the objection above, voted to not accept the Planning Consultant’s recommendation that Block 53, Lot 3 also satisfies criterion “a” pursuant to Section 5 of the Redevelopment Law, but in doing so the Land Use Board erroneously identified such property as Block 59, Lot 8; and

WHEREAS, after careful consideration of all evidence presented and all testimony offered,

NOW THEREFORE, BE IT RESOLVED by the Land Use Board of the Borough of Highlands that all lots within the Study Area satisfy the criteria pursuant to the Redevelopment Law to be designated as a Non-Condensation Redevelopment Area.

BE IT FURTHER RESOLVED, that the aforementioned recitals are incorporated herein as though fully set forth at length.

BE IT FURTHER RESOLVED, that the Report, including the findings of fact and conclusions contained therein, is hereby incorporated herein by reference in its entirety. The Land Use Board Secretary is hereby directed to transmit a copy of the Report and this Resolution to the Borough Council.

BE IT FURTHER RESOLVED, that the Land Use Board finds that the testimony and evidence placed on the record supports a finding that the Study Area meets the statutory criteria to support its designation as a Non-Condensation Redevelopment Area, with the exception that it does not find that the testimony and evidence placed on the record supports a finding that Block 53, Lot 3 also satisfies criterion “a” pursuant to Section 5 of the Redevelopment Law.

BE IT FURTHER RESOLVED, that the Land Use Board hereby recommends that the Borough Council designate the entire Study Area as a Non-Condensation Redevelopment Area pursuant to the Redevelopment Law for the reasons set forth in the Report, on the record, and herein.

BE IT FURTHER RESOLVED, that a certified copy of this Resolution be forwarded to the Borough Clerk, Chief Financial Officer, Land Use Board and Land Use Board Secretary.

Bruce Kutosh, Acting Chairman
Borough of Highlands Land Use Board

ON MOTION OF: Mr. Kutosh

SECONDED BY: Mr. Lee

ROLL CALL:

YES: Councilmember Martin, Mr. Kutosh, Mr. Lee, Ms. Nash

NO:

RECUSED: Mayor Broullon, Chief Burton, Chair Knox, Mr. Montecalvo, Ms. Walsh

INELIGIBLE: Vice Chair Tierney, Ms. Chang, Ms. Pendleton

ABSENT: Ms. LaRussa

DATED: October 7, 2021

I hereby certify this to be a true and accurate copy of the Resolution adopted by the Borough of Highlands Land Use Board, Monmouth County, New Jersey, at a public meeting held on October 7, 2021.

Michelle Hutchison, Secretary
Borough of Highlands Land Use Board

2. Memorialization of Resolution 2021-23 Extension of Minor Subdivision Approval –Gundlach LUB2020-04: 220 Navesink Ave., B120 L1 & 2

Chair Knox resumed his role.

**BOROUGH OF HIGHLANDS
COUNTY OF MONMOUTH**

**LAND USE BOARD RESOLUTION 2021-23
RESOLUTION OF MEMORIALIZATION
EXTENSION OF MINOR SUBDIVISION APPROVAL**

**Approved: September 2, 2021
Memorialized: October 7, 2021**

**MATTER OF PAUL S. GUNDLACH
APPLICATION NO. LUB-2020-04**

WHEREAS, an application for an extension of minor subdivision approval has been made to the Highlands Land Use Board (hereinafter referred to as the “Board”) by Paul S. Gundlach (hereinafter referred to as the “Applicant”) on lands known and designated as Block 120, Lots 1 and 2 as depicted on the Tax Map of the Borough of Highlands (hereinafter “Borough”) within the R-2.03 (Residential) Zone (hereinafter “Property”); and

WHEREAS, a public hearing was held before the Board on September 2, 2021 with regard to this application; and

WHEREAS, on or about August 10, 2021, the Board received a written request for an extension from the Applicant and at the September 2, 2021 hearing, heard statements from the Board Engineer regarding the request, and with the public having had an opportunity to be heard; and

WHEREAS, a complete application has been filed, the fees as required by Borough Ordinance have been paid, and it otherwise appears that the jurisdiction and powers of the Board have been properly invoked and exercised.

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 Applicant is seeking an extension of time for the minor subdivision approval along with use variance relief granted by the Board on September 3, 2020 and memorialized in a resolution dated October 1, 2020.

2. The Applicant was granted minor subdivision approval with use variance relief to subdivide Block 120, Lot 2 by adjusting the lot line and reducing the rear yard by approximately sixty (60) feet, as a result of which the depth of Block 120, Lot 2 would be reduced to one hundred (100) feet on the northerly side line and to one hundred (100) feet on the southerly side line; and increasing the depth of Block 120, Lot 1 to approximately two hundred and thirty-four (234) feet on the northerly side line and to approximately two hundred and thirty-two (232) feet on the southerly side line.

3. Block 120, Lots 1 and 2 were pre-existing non-conforming lots as to use, and since one lot was being reduced in size, a use variance was also required. The Board granted the requested use variance relief pursuant to N.J.S.A. 40A:55D-70d(2).

4. The newly configured lots would be 12,305 s.f. (Block 120, Proposed Lot 1.01) and 5,248 s.f. (Block 120, Proposed Lot 2.01), respectively.

5. The Applicant did not testify at the hearing but submitted a letter to the Board, requesting the extension.

6. The Board Engineer testified that the 190-day period for recording the minor subdivision deed expired on April 8, 2021. Resolution compliance had been completed in a timely manner and the Applicant had submitted the deed for recording with the County on April 2, 2021. For reasons that are unknown and through no fault of the Applicant, the County did not record the minor subdivision deed until April 15, 2021; after the 190-day filing period had expired. The Applicant, therefore, diligently pursued the filing of the deed to perfect the minor subdivision with the County, as required.

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

8. The Board has received, reviewed, and considered the Applicant's August 10, 2021 written request for an extension, Land Use Board Resolution No. 2020-04 and its associated exhibits, and the statements made at the hearing with regard to this application. All exhibits, resolutions, and statements have been incorporated herein in their entirety.

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 concludes that good cause has been shown to approve the application of Paul S. Gundlach for an extension of Minor subdivision approval pursuant to N.J.S.A. 40:55D-47 until December 31, 2021.

The Board acknowledges that the Applicant has diligently obtained all necessary approvals since receiving minor subdivision approval and that resolution compliance is complete. The Board further acknowledges that the Applicant had previously submitted the deed to the County for recording in a timely manner but that the County did not file same prior to the expiration of the 190-day filing period. The Board, therefore, determines that the Applicant diligently pursued all outside agency approvals and requires additional time to file the deed. The Board, therefore, finds that an extension of time to December 31, 2021 is appropriate in this circumstance pursuant to N.J.S.A. 40:55D-47.

NOW, THEREFORE, BE IT RESOLVED by the Highlands Land Use Board on this 7th day of October 2021, that the action of the Land Use Board taken on September 2, 2021 granting

Application No. LUB-2020-04 of Paul S. Gundlach for an extension of minor subdivision approval pursuant to N.J.S.A. 40:55D-47 be and the same is hereby memorialized as follows:

The application is granted subject to the following conditions:

1. The Applicant is granted an extension of time expiring December 31, 2021.
2. All terms and conditions of the Board's previous approvals, except as satisfied or amended, shall remain in place.
3. The Applicant shall provide a certificate that taxes are paid to date of approval.
4. 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.
5. 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 Applicant's expense and to send a certified copy of this Resolution to the Applicant 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: Chief Burton

ROLL CALL:

YES: Mayor Broullon, Chief Burton, Mr. Kutosh, Mr. Montecalvo, Ms. Chang

NO:

INELIGIBLE: Councilmember Martin, Ms. LaRussa, Mr. Lee, Ms. Walsh, Ms. Nash, Ms. Pendleton

ABSENT: Ms. LaRussa

DATED: October 7, 2021

I hereby certify this to be a true and accurate copy of the Resolution adopted by the Borough of Highlands Land Use Board, Monmouth County, New Jersey, at a public meeting held on October 7, 2021.

Michelle Hutchison, Secretary
Borough of Highlands Land Use Board

HEARINGS ON OLD BUSINESS:

1. LUB2020-07: 9 Shrewsbury Avenue, Block 42 Lot 2, Char-Ron –Variance for SFD
Chief Burton recused himself.

Richard Sciria, attorney for the applicant, summarized the background and history of the application and when it was last heard via Zoom at the May Land Use meeting. He presented Scott Nichols, as a professional for the applicant.

Mr. Nichols was sworn in and gave his credentials and experience as architect which the Board accepted. He then proceeded to describe the proposed structure and the revisions made to address the Board's comments. He listed the variances that were sought.

Vice Chair Annemarie Tierney asked for clarification of the proposed driveway and referred to the Board engineer's review letter. Mr. Nichols agreed that a vehicle could not park in the proposed driveway. Vice Chair Tierney asked about the front setback. Mr. Sciria suggested holding for the planner to answer the question.

Mr. Knox asked about square footage and Mr. Nichols answered.

Ron Gasiorowski, attorney representing Hugh Sharkey, an objector, was sworn in. Dustin Glass asked if he would have any witnesses. Mr. Gasiorowski answered yes and that he had no objection to the notice. Mr. Glass described the procedure for the Board and public.

Mr. Gasiorowski asked if the planner's plans were presented into evidence and asked if there were any revised plans since. He asked the same for the plot plan. He asked Mr. Nichols his process in designing the structure and asked if he thought about different potential designs with different setbacks or no front porch. Mr. Sciria advised Mr. Nichols to answer to his extent as an architect. Mr. Nichols gave his answer.

Chair Knox reminded all parties to remain civil.

Matt Flynn was sworn in and gave his credentials and qualifications as licensed planner which the Board accepted. Mr. Flynn passed around 2 supporting documents which was then entered in as exhibits. He went over his exhibits and described the project and the nonconforming lot. He described how the project compares with surrounding properties; the hardships presented; and, the positive and negative criteria. Mr. Sciria asked Mr. Flynn to go over the positive and negative criteria and hardships.

Mayor Broullon cited that Bay Avenue and Shrewsbury Avenue are in different zones so comparisons cannot be made. She asked for clarification about the decks in Lot 15 and Lot 3.

Mr. Flynn answered by stating case law and noted that the fact that the property abuts the Central Business District zone strengthens the applicant's case.

Vice Chair Tierney suggested that the plot plan is incorrect and asked for clarification of the inconsistencies. Mr. Sciria suggested that Mr. Lieber, who testified at the May meeting and author of the plot plan, can revise the plot plan. Vice Chair Tierney asked Mr. Flynn if he's stating that proposed project would have no impact on Lot 15. She asked for the distance of the first floor to the sidewalk. Vice Chair Tierney gave an explanation of the history of the houses that were lifted after Superstorm Sandy.

Mayor Broullon suggested that the applicant finds the answer to "area of questionable title."

Helen Chang asked who owns the fence between the applicant and Lot 15.

Councilmember Kevin Martin asked Mr. Nichols the impact on the project if they were to conform to Mr. Gasiorowski's hypothetical scenarios. Mr. Nichols answered size of bedroom(s) or number of bedrooms and livable square feet.

Vice Chair Tierney asked Mr. Nichols for clarification of livable square footage and deck square footage. Vice Chair Tierney asked Mr. Flynn about the plot plan revision. Mr. Nichols suggested that Mr. Lieber can address that question. Mr. Sciria explained that Mr. Lieber could only describe the revisions at the May Zoom meeting as the Board Members did not have copies then due to procedures.

Mr. Gasiorowski had no problems with Mr. Lieber submitting a plot plan revision. Mr. Gasiorowski asked about Mr. Flynn's experience. Both Chair Knox and Mr. Glass reminded him that the Board had accepted Mr. Flynn's qualifications. Mr. Gasiorowski asked about Mr. Flynn's history with undersized lots. Mr. Sciria objected the question about Mr. Flynn's qualifications. Mr. Gasiorowski rephrased the question and asked Mr. Flynn to compare Lots 2 and 3 and if they were difficult to design for. Mr. Flynn responded. Mr. Gasiorowski asked Mr. Flynn to clarify his answer of "modern." Mr. Glass reminded Mr. Gasiorowski that Mr. Flynn is here as a planner and not as an architect or designer of the house. Mr. Gasiorowski listed scenarios and asked if Mr. Flynn would agree or disagree. He asked for clarification about the rear setback. He asked about the porch. Mr. Flynn and Mr. Glass reminded all that he was not an architect. Mr. Gasiorowski asked how many visits he made to the property and how long were his visit was. Mr. Flynn replied one and for 45 minutes.

Mr. Glass asked Mr. Gasiorowski if he had any new questions as many were repeated. Mr. Gasiorowski asked about the relevance of the fence in Lot 15 in the applicant asking for

variance. Mr. Glass asked Mr. Gasiorowski how many more questions he has as Board may close out Public portion due to time. Mr. Gasiorowski replied 5 minutes tops.

Mr. Kutosh asked about the “questionable title,” as we don’t know who owns it and it could affect the rear setback.

Hugh Sharkey was prepared to talk but Mr. Glass reminded that since he was represented by an attorney, his questions would have to go through Mr. Gasiorowski.

Chair Knox suggested that the application be carried. Mr. Sciria did not object and will have Mr. Lieber present at next meeting. Mayor Broullon suggested that they research the title of the “questionable area.”

Offered by: Mayor Broullon

Seconded by: Mr. Kutosh

Ayes: Mayor Broullon, Mr. Kutosh, Mr. Lee, Councilmember Martin, Mr. Montecalvo, Vice Chair Tierney, Chair Knox

Nays:

Recused: Chief Burton,

Absent: Ms. LaRussa

LUB2020-07 was carried to the November 4th meeting and would not need to re-notice. Mr. Gasiorowski asked if he could check his calendar to see his availability. Mr. Glass stated that Mr. Gasiorowski can notify the Land Use Secretary.

Board recessed at 9:20pm and resumed at 9:27pm with Roll Call.

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

Also Present: Board Attorney Dustin Glass

Board Engineer Andrew Denbigh

HEARINGS ON NEW BUSINESS:

1. LUB2021-03: 26 Ralph Street, Block 113 Lot 6.01, Giordano –Zoning Appeal, Variance

Maxine Giordano, 26 Ralph Street, the property owner and applicant, was sworn in.

Mr. Glass explained to the Board and Public that Ms. Giordano was here to appeal her zoning denial and, if necessary, her variance application will be heard. The zoning denial appeal will be considered first and then the variance application if necessary. Chair Knox asked Mr. Glass to explain the situation. Mr. Glass described the property and Ms. Giordano’s actions.

Ms. Giordano gave the history of the property and her history with the property, her construction and fence. She presented Andrew Stockton as her professional expert.

Mr. Stockton, 31 Grand Tour, was sworn in and gave his credentials and qualifications, which the Board accepted. Mr. Stockton described the unique character of the property –that the back of the property dead ends to a street but is not a front yard. He quoted the definition of front yard. He explained that there was previously a 6ft fence that the new fence replaced. The Giordanos built a new house.

Chair Knox asked where the front street/yard was of the previous structure. Mr. Stockton replied Ralph Street.

Mr. Stockton quoted the definition of front lot line and stated that the definitions of front yard and front lot line do not match.

Mr. Glass asked if there were any setback variance. Mr. Stockton replied no.

Chair Knox asked if Board has to decide what is the front yard. Mr. Christian Lee asked where the Zoning Officer was and if proper notice was given.

Mr. Glass explained that once the old fence was torn down, there was no longer a pre-existing condition or conforming precedence. Mr. Frank Montecalvo asked how you can put in a new fence with an existing fence in place.

Mr. Lee suggested that since the Zoning Officer wasn't present to explain the basis of denial, that the Board moves to consider the variance application. Mayor Broullon disagreed and gave example of what happened after Superstorm Sandy. She then stated that a property can't have 2 front yards. Mr. Stockton added except a corner lot property.

Chair Knox wanted to hear the objector. Richard Sciria, attorney representing the objector, asked about the Zoning Officer's interpretation of front yard. He asked Mr. Stockton if one can have 2 front lots. Mr. Stockton replied if you have a corner lot. Mr. Sciria asked Mr. Stockton if there were any other examples of properties with the same as 26 Ralph in Highlands. Mr. Stockton replied maybe 1 or 2. Mr. Sciria asked if this could be considered a cul de sac. Mr. Stockton replied that William Street is not. Mr. Sciria asked what about an eye test. Mr. Stockton replied that it's the definition of front yard vs. definition of front lot line. He confirmed that the new fence is not in the same location as the old fence. Mr. Sciria asked if new fence was on property line and if any part of the fence was over 6ft. Mr. Stockton answered that the fence was on the property line and that there was no part of the fence that was over 6ft but he did not measure the posts. Mr. Sciria asked if he had visited the property and asked about the driveway of Lot 18. Mr. Glass reminded Mr. Sciria to limit his questions to the zoning denial.

Councilmember Kevin Martin asked what was the objector's reason(s). Mr. Sciria replied that the new fence is not in the same location as the old fence. Mr. Glass asked if there was any setback requested. Mr. Sciria replied no. Vice Chair Tierney stated that variance is about height of the fence, not its location. Mr. Glass asked if the objector(s) were present.

Kevin Mullan, 7 William St., #4, asked for clarification of height limit of fence in back yard.

Lynn Mullan, 7 William St., #4, asked if the old fence had a gate. Mr. Mullan stated that the new fence has a gate and there's a sign to not block. Ms. Mullan asked if there would be deliveries made using the gate. Ms. Giordano replied that during construction, there were deliveries made using gate but now that construction is done, she could only see using it for mulch delivery maybe once or twice a year. Ms. Giordano stated that the sign was up at the suggestion of Highlands Department of Public Works so that the department wouldn't pile the snow too high.

Mayor Broullon stated that by definition, Ralph Street is the front yard and William Street is not.

Mr. Sciria stated that the problem is that the fence was built without a permit and that the owner is going back retroactively. Additionally, he noted that the Zoning Officer wasn't present to explain interpretation for the denial.

Mr. Montecalvo asked where the mailbox was. Ms. Giordano replied on Ralph Street.

Mr. Glass informed the Board that it has to decide to overturn the zoning denial or approve it.

Offered by: Mayor Broullon to overturn zoning denial

Seconded by: Vice Chair Tierney

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

Nays: Mr. Lee

Abstain:

Absent: Ms. LaRussa

APPROVAL OF MINUTES OF SEPTEMBER 2, 2021 MEETING

Offered by: Mr. Kutosh

Seconded by: Mayor Broullon

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

Nays:

Ineligible: Chief Burton, Mr. Lee, Councilmember Martin, Ms. Pendleton, Ms. Walsh, Ms. Nash, Vice Chair Tierney

Absent: Ms. LaRussa

COMMUNICATION AND VOUCHERS

1. Board Member Absences

Chair Knox stated that the Board attendance record was included in the meeting packet. Mr. Kutosh stated that his one absence was due to work but it was not listed as excused absence; however, he thinks that it should be considered excused. The Board agreed.

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

PUBLIC COMMENTS: None

ADJOURNMENT

Offered by: Mr. Kutosh
Seconded by: Vice Chair Tierney
All in favor
None Opposed
Adjourned at 10:21pm.

I, Nancy Tran, certify that this is a true and correct record of the actions of the Borough of Highlands Land Use Board on October 7, 2021.



Nancy Tran, Land Use Board Assistant Secretary