

**Borough of Highlands
LAND USE BOARD
June 3, 2021 Regular Meeting Minutes**

HELD VIA VIDEO CONFERENCE

Chair 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, Ms. LaRussa, Mr. Lee, Mr. Montecalvo, Ms. Walsh, Ms. Pendleton, Chair Knox

Absent: Councilmember Martin, Ms. Chang, Ms. Nash, Vice Chair Tierney

Also Present: Board Attorney Dustin Glass

Board Engineer Proxy Robert Yuro

OPEN FOR PUBLIC COMMENTS: None

ACTION ON OTHER BUSINESS:

1. LUB2021-02: 149 Portland Road, B12 Lot 4.01 & 4.02, Mattina –Concept plan
Mr. Glass advised the Board that this is an informal ask for the input from the Board. No notice is required. There will be no input from the Public and no vote from the Board. As this is informal there is no testimony and that no one is held accountable for anything that transpires.

The Board heard the property owner’s plans for their property and gave their recommendations.

RESOLUTIONS:

1. LUB2020-08: 289 Bay Avenue, Block 81 Lot 12, Arjika Inc. –Subdivision, Use Variance

**RESOLUTION 2021-13
BOROUGH OF HIGHLANDS LAND USE BOARD
RESOLUTION OF DENIAL
MONMOUTH COUNTY, NEW JERSEY
DENIAL OF USE VARIANCE AND MINOR SUBDIVISION RELIEF**

**Denied: May 6, 2021
Memorialized: June 3, 2021**

**IN THE MATTER OF ARJIKA PROPERTIES, INC.
APPLICATION NO. LUB-2020-08**

WHEREAS, an application for use variance relief pursuant to N.J.S.A. 40:55D-70d(1) along with minor subdivision approval pursuant to N.J.S.A. 40:55D-47 and bulk variance relief pursuant to N.J.S.A. 40:55D-70c has been made to the Highlands Land Use Board (“Board”) by Arjika Properties, Inc. (“Applicant”) on lands known and designated as Block 81, Lot 12 on the official Tax Map of the Borough of Highlands (“Borough”) and more commonly known as 289 Bay Avenue, Highlands, N.J. 07732 in the CBD (Central Business District) Zone (“Property”); 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, a public hearing was held on May 6, 2021, via the Zoom platform, at which time testimony and exhibits were presented on behalf of the Applicant and all interested parties were provided with an opportunity to be heard.

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 5,000 s.f with twenty-five (25) feet of frontage along Bay Avenue within the CBD Zone. The subject Property is currently vacant.
2. The Applicant is seeking (d)(1) use variance relief along with minor subdivision approval to create two, equal-sized 2,500 s.f. lots which will both be developed with one single-family dwelling. Each proposed dwelling would have a concrete driveway, a covered and elevated wooden front porch, an elevated rear wooden deck, and an attached garage. Ingress and egress from each dwelling would be via Bay Avenue and, if approved.
3. The proposed single-family dwellings are not a permitted use in the CBD Zone.
4. The Applicant has applied for the following four (4) bulk variances (as discussed infra, the bulk variance relief is subsumed within the request for use variance relief).

<u>CBD Zone</u>	<u>Required</u>	<u>Existing Lot 12</u>	<u>Proposed Lot 12.01</u>	<u>Proposed Lot 12.02</u>
Min. Side Yard Setback	5*	0	3 4	3 4
*Section 21-91 of the Borough Code indicates that side yards are not required in the CBD Zone, however, if any are to be provided, they shall be at least five (5) feet.				

5. The Applicant’s attorney, Brad Batch, Esq., introduced the proposed development and advised that the Applicant intended to subdivide the lot and construct two (2), new single-family homes.

6. The Project Contractor, Chris Ruby, testified that the Applicant was seeking to subdivide the subject Property and create two (2) 2,500 s.f. building lots. He noted that he had constructed two similar homes in the Borough, at 15-17 4th Street, and that the to-be-constructed homes for the proposed development would resemble those homes in shape, size, and layout.

7. Mr. Ruby continued that the stairs for each proposed dwelling would be situated in such a way as to permit two (2) vehicles to park in the driveway, for a total of three (3) off-street

parking spaces. He stated that this would also allow better access to the utilities, located near the stairwells.

8. Mr. Ruby further testified that the proposed homes would each have three (3) bedrooms and would mirror the images of one another. The proposed lots would also each be twenty-five (25) feet wide.

9. The Applicant's Planner, Patrick Ward, PE, PP testified that single-family dwellings are not a permitted use in the CBD Zone and that use variance relief, as well as four (4) bulk variances for side-yard setbacks would be required.

10. Mr. Ward testified that four (4) foot set backs on the inner facing side yards and three (3) foot setbacks on the outer facing side yards were required. The Applicant would also erect firewalls, as needed, to comply with fire code requirements. The air conditioning units for both proposed dwellings would be located along the inner facing side yard, projecting no more than two (2) feet from the side of the home.

11. Mr. Ward then testified that the Project complied with the R.S.I.S. parking requirements for residential dwellings. He continued that most of the existing uses near the subject Property are residential, with only one (1) nearby site being a commercial use. He opined that the particular area of the CBD Zone is more appropriate for residential than commercial uses.

12. He further testified that the proposed development would promote a desirable environment and that the Applicant has built similar homes elsewhere in the Borough with success. He further asserted that the proposed development would be compatible with the neighborhood and of other homes in the vicinity and, thereby, preserve the character of the Borough's downtown area.

13. Mr. Ward then testified that granting the application would decrease parking stress on Bay Avenue by providing a total of six (6) off-street parking spaces which would not result in any negative impact on the Borough.

14. In response to questions from the Board, Mr. Ruby stated that he had purchased the lot and torn down the existing home after Hurricane Sandy. The subject Property has been vacant for approximately nine (9) years.

15. The Board also noted that the property directly next to the subject Property is commercial. The Board also commented that the Master Plan promotes commercial uses and disfavors the construction of residential uses in the CBD Zone.

16. Mr. Ward responded that the Master Plan contemplates new commercial development on Bay Avenue but that the Board must be mindful of appropriate commercial uses, taking into account parking issues.

17. The Board also commented that the proposed development would increase the residential use of the Property, doubling the density thereof. The Board then questioned whether replacing the previous home with one (1) single-family home would be more appropriate.

18. Mr. Ruby responded that if he constructed one (1) home on the lot, the proposed dwelling could be much larger and out of character with the neighborhood. He testified that he could build a home of approximately 3,500 s.f., which would be oversized for the area.

19. The Board further questioned whether the proposed dwellings would actually result in the loss of two (2) on-street parking spaces. Mr. Ward responded that although two (2) on-street parking spaces would be lost, the subject Project would add six (6) other parking spaces, for a net positive.

20. The Board asked whether the CBD Zone is a redevelopment area. Mr. Ward responded that it is not and is a zoning district but stated that the CBD Zone is, however, relatively new, having been created in 2018.

21. It was, however, revealed that the entirety of Bay Avenue is being studied to be included as part of a redevelopment area. Mr. Ward agreed that the subject Property is in an area being studied for redevelopment.

22. Mr. Ward added that this section of Bay Avenue is unique in that it is predominantly residential. He testified that the subject Property is oversized for residential development and, thus, subdividing is more appropriate.

23. Mr. Ward further testified that although certain commercial uses are permitted in the CBD Zone, all of these permitted uses require more parking than a residential development.

24. The Board Engineer asked the Applicant to respond to the Engineer's March 9, 2021 Review Letter. The Applicant indicated that he would comply with all recommendations and requirements in the Engineer's letter, including placing appropriate landscaping, if possible, in the rear of the yard.

25. The hearing was then opened to the public, at which time James Horniacha, 287 Bay Avenue, asked why the project is being considered if the CBD Zone prohibits such use. The Applicant's attorney responded that the Applicant was seeking relief from the zoning requirements. Mr. Horniacha then asked about the yard setbacks and Mr. Ward provided him with the details thereof.

26. Tara Coffey, 135 Portland Road, asked how many variances were being requested. Mr. Ward responded that they were seeking one (1) use variance and four (4) bulk variances.

27. Mr. Horniacha then testified that the comparable homes in the neighborhood were built roughly 100 years ago and are extremely small and narrow. Mr. Horniacha objected to the Project.

28. The Board noted that there are many vacant lots around town and that lot uniqueness is not uncommon. Is the Project better than what may come in the future?

29. The Board then questioned whether the Applicant had discussed the proposed development with some of the neighbors. Mr. Batcha stated that the Applicant had discussed the

proposed development with the neighbors. Mr. Batcha continued that the Applicant was doing the best to limit parking stress and, in fact, the parking would be a net positive for the Borough.

30. The Board commented that the Master Plan is more than an outline and going from a single-family use to a denser residential use, does not promote the goal of the Master Plan. If the Borough is going to allow constant development on Bay Avenue then the Master Plan should be amended, as opposed to the Board granting a variance.

31. The Board also recognized that it has received mixed-use applications and that the Applicant does not appear to have considered what variances would be required.

32. There were no other members of the public or Board 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 Applicant's request for use variance relief pursuant to N.J.S.A. 40:55D-70d(1) along with minor subdivision approval pursuant to N.J.S.A. 40:55D-47 should be denied in this instance.

The Applicants require use variance relief in order to permit the construction of two (2) single-family homes in the CBD Zone. The New Jersey Courts have been willing to accept a showing of extreme hardship as sufficient to constitute a special reason. The courts have indicated that there is no precise formula as to what constitutes special reasons unless the use is determined to be inherently beneficial, and that each case must be heard on its own circumstances. Yet, for the most part, hardship is usually an insufficient criteria upon which the Board can grant a variance. In addition, special reasons have been found where a variance would serve any of the purposes of zoning as set forth in N.J.S.A. 40:55D-2. However, in the last analysis, a variance should only be granted if the Board, on the basis of the evidence presented before it, feels that the public interest, as distinguished from the purely private interests of the Applicants, would be best served by permitting the proposed use.

In these instances, the Board must also find that the granting of the variance will not create an undue burden on the owners of the surrounding properties. The Board also notes the special reasons requirement may be satisfied if the Applicant can show that the proposed use is peculiarly suited to the particular piece of property. With regard to the question of public good, the Board's focus is on the variance's effect on the surrounding properties and whether such effect will be substantial. Furthermore, in most "d" variance cases, the Applicant must satisfy an enhanced quality of proof and support it by clear and specific findings by this Board that the variance sought is not inconsistent with the intent and purpose of the Master Plan and Zoning Ordinance. The burden of proof is upon the Applicant to establish the above criteria.

The Board finds that the Applicant has failed to satisfy the positive criteria. The Board rejects the testimony of the Applicant's Planner. The Board finds that while the surrounding neighborhood

has some residential development, the lot immediately next to the subject Property is developed with a permitted commercial use. Creating two prohibited residential lots would not fit in with the character of the adjoining permitted use. The Board also finds that a desirable visual environment could also be created through the development of a conforming permitted use or even one single family home.

The Board also recognizes that the New Jersey Courts have held that it is not enough to merely advance the goals of planning. Rather, the advancement of these goals in a use variance application has to be related to the subject property and the distinguishing characteristics of that property. The Board rejects the assertion that the subject Property is distinguishable. There are numerous vacant properties in the Borough with common characteristics. The Board therefore cannot conclude that the subject Property is particularly suited for development of two (2) single family homes on two lots. The Applicant has failed to satisfy the positive criteria.

The Board also finds that the Applicant has failed to satisfy the enhanced criteria. The Applicant has failed to cite any section of the Master Plan which promotes residential development on the subject Property. The Applicant has further failed to identify any recommendations contained in a Periodic Master Plan Reexamination Report which promotes residential development on the subject Property. The Board therefore finds that the Applicant has failed to reconcile the absence of such policy statements in the Master Plan with the proposed development. The Applicant has further provided testimony that the Zoning District was recently created in 2018. The Borough Council was aware of the characteristics of the area at that time. It was also aware that the Master Plan did not recommend residential development on the subject Property. Consistent with the Master Plan, the Borough Council made a purposeful decision not to permit residential development. There is nothing in the record to suggest that the Borough Council somehow overlooked the subject Property. The Applicant has therefore failed to reconcile the proposed use with the decision of the Borough Council to prohibit it. The Applicant has therefore failed to satisfy the enhanced criteria.

The Board also finds that the Applicant has failed to satisfy the negative criteria. The Board is without jurisdiction to simply disagree with the zoning in this area. It is also aware that the entire area is currently being reviewed as an area in need of redevelopment. The Board finds that it would be unlawfully usurping the legislative power of the Borough Council by granting use variance relief in this instance. The Board also finds that the creation of two residential lots would unduly increase prohibited residential density. Once again, the subject Property is immediately adjacent to a permitted commercial use. This would result in a substantial detriment to the zone plan and the zoning ordinance. The Board therefore finds the Applicant has failed to satisfy the negative criteria.

The Board concludes that the Applicant has failed to satisfy the positive or the negative criteria and that use variance relief pursuant to N.J.S.A. 40:55D-70d(1) must be denied.

The Board also finds that the request for minor subdivision approval pursuant to N.J.S.A. 40:55D-47 must be denied for the same reasons.

NOW, THEREFORE, BE IT RESOLVED by the Land Use Board of the Borough of Highlands on this 3rd day of June 2021, that the action of the Land Use Board taken on May 6, 2021 for Application No. LUB 2020-08, for use variance relief pursuant to N.J.S.A. 40:55D-70d(1) along

with minor subdivision approval pursuant to N.J.S.A. 40:55D-47 is determined and hereby memorialized as follows: The application for use variance relief under the Municipal Land Use Law pursuant to N.J.S.A. 40:55D-70d(1) as well as the Land Use of ordinance of the Borough of Highlands is hereby denied.

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: Christian Lee

SECONDED BY: Jaclyn Walsh

ROLL CALL:

YES: Chief Rob Burton, Laurie LaRussa, Christian Lee, Frank Montecalvo, Jaclyn Walsh

NO:

INELIGIBLE: Mayor Carolyn Broullon, Bruce Kutosh, Lorine Pendleton, Chair Rob Knox

ABSENT: Council Member Kevin Martin, Helen Chang, Miranda Nash, Vice Chair Annemarie Tierney

DATED: June 3, 2021

The undersigned Secretary certifies the within Resolution was adopted by this Land Use Board on May 3, 2021, and memorialized herein pursuant to N.J.S.A. 40:55D-10g on June 6, 2021.

Michelle Hutchinson, Secretary
Borough of Highlands Land Use Board

BOROUGH OF HIGHLANDS LAND USE BOARD

EXHIBITS

Case No. LUB-2020-08/Arjika Properties, Inc.

Minor Subdivision

May 6, 2021

June 3, 2021

- A-1 Planning Board Application, dated March 10, 2020.
- A-2 Zoning Denial, dated June 4, 2020.
- A-3 One (1) Minor Subdivision Plan prepared by Thomas Craig Finnegan, P.L.S., dated June 25, 2019 revised through November 18, 2020, consisting of one (1) sheet.
- A-4 One (1) Architectural Plan prepared by Grammar Designs, LLC, not dated, consisting of three (3) sheets.
- A-5 Subdivision Application.

INTEROFFICE REPORTS

- B-1 Board Engineer's Review Letter of Minor Subdivision, Plat Requirements (Completeness), dated September 11, 2020.
- B-2 Board Engineer's Review of Minor Subdivision, Plat Requirements (Second Completeness), dated January 15, 2021.
- B-3 Board Engineer's Fee and Escrow Calculation Letter, dated January 15, 2021.
- B-4 Board Engineer's First Engineering Review Letter, dated March 9, 2021.

- 2. LUB2019-05: 210 Bay Avenue, Block 64 Lot 25, Hung –Multi-use, Use Variance

RESOLUTION 2021-14

BOROUGH OF HIGHLANDS LAND USE BOARD

RESOLUTION OF MEMORIALIZATION

MONMOUTH COUNTY, NEW JERSEY

FLOOR AREA RATIO VARIANCE RELIEF WITH PRELIMINARY AND

FINAL SITE PLAN APPROVAL

WITH ANCILLARY VARIANCE RELIEF

Approved: May 6, 2021

Memorialized: June 3, 2021

IN THE MATTER OF 210 BAY AVENUE, LLC.

APPLICATION NO. LUB-2019-05

WHEREAS, an application for (d)(4) Floor Area Ratio ("FAR") variance relief with preliminary and final site plan approval along with ancillary variance relief has been made to the Highlands Land Use Board (hereinafter referred to as the "Board") by 210 Bay Avenue, LLC (hereinafter referred to as the "Applicant") on lands known and designated as Block 64, Lot 25, as depicted on the Tax Map of the Borough of Highlands (hereinafter "Borough"), and more commonly known as 210 Bay Avenue in the CBD (Central Business District) 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 March 4, 2021 and May 6, 2021, via the Zoom platform, at which time testimony and exhibits were presented on behalf of the Applicant 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:

33. The subject Property contains 2,500 s.f with twenty-five (25) feet of frontage along Bay Avenue within the CBD Zone. The subject Property is currently vacant.

34. The Applicant is seeking (d)(4) FAR variance relief along with preliminary and final site plan approval with ancillary bulk variance relief to permit the construction of a three-story mixed-use building containing 5,526 s.f. of floor area. The Applicant proposes a restaurant on the first floor with the second and third floors proposed as two, two-bedroom apartments (for a total of two residential units). The proposed mixed-use development is a permitted use in the CBD Zone.

35. The Applicant proposes five (5) parking spaces, three (3) of which are to be located on Lot 24 for the benefit of the subject Property. The existing driveway on Lot 24 will be used as access to Lot 25.

36. Based upon the application and plans submitted, any amendments or modifications thereto and the testimony of the Applicant's experts, the Applicant requires (d)(4) FAR variance relief because the maximum floor area ratio for the CBD Zone is .65 whereas the Applicant proposes a maximum floor area ratio of 2.21. The following bulk variance relief is also required:

<u>CBD Zone</u>	<u>Required</u>	<u>Existing</u> <u>Lot 25</u>	<u>Proposed</u> <u>Lot 25</u>
Max Lot Coverage (%)	80	N/A	100
Max Building Coverage (%)	35	N/A	73.7

37. Counsel for the Applicant, Richard Sciria, Esq. explained that the Applicant was seeking approval for a mixed-used development which would include residential and commercial uses.

38. Testimony was taken from Yong Huang who identified himself as a principal of the Applicant. Mr. Huang described the subject application and advised that he is the owner of Lot 25 as well as Lot 24. Although the listed owner of Lot 24 is YHH Realty, LLC and the listed owner of Lot 25 is 210 Bay Avenue, LLC, Mr. Huang stated that he is the principal owner of both entities.

39. Mr. Huang testified that Lot 25 is currently vacant and Lot 24 is improved with a three-story mixed use building with the first floor operating as a Chinese Restaurant and the second and third floors comprised of four (4), one-bedroom apartments.

40. The Architect, Catherine Franco, P.A. described the proposed structure and the parking plan. She testified that there would be two (2) parking spaces located behind the newly-constructed building with three (3) additional spaces alongside of the building (between Lots 24

and 25). The first floor would include one commercial unit and the residential units (on the second and third floors) would have two bedrooms each with a balcony in the rear and a stairway providing separate access from the commercial unit.

41. Ms. Franco then testified that the air conditioning units could be located on the roof and that the plans were ADA compliant. She stated that the proposal exceeds the permitted maximum floor area ratio due to the size of the subject Property. Ms. Franco added that the parking had been maximized as much as possible.

42. The Applicant's Engineer, A.J. Garito, Jr., P.E. testified that the Applicant required (d)(4) FAR variance relief. He stated that the proposed use is permitted but that the Applicant must demonstrate that the site remains suitable despite an increase in the floor area ratio beyond that which is permitted in the CBD Zone. Mr. Garito testified that it was impossible for the Applicant to comply with the floor area ratio due to the size of the subject Property and that the absence of relief renders the parcel undevelopable.

43. Mr. Garito then stated that three (3) of the proposed parking spaces would be located on Lot 24 with two (2) being located on Lot 25. Access to all proposed parking would be via the driveway located on Lot 24.

44. The Board inquired whether an easement was needed from Lot 24 to access the three (3) parking spaces located on Lot 24. The Applicant stated that an easement would be required and submitted to the Board professionals for review and approval.

45. The Board's Engineer, Edward Herman, PE testified that there were different parking requirements for residential and commercial uses. He stated that if the subject Property were developed solely as residential, nine (9) on-site parking spaces would be required, whereas by constructing a mixed-use project (with commercial space), sixteen (16) on-site parking spaces are required.

46. Mr. Herman questioned whether the Lot 24 driveway was wide enough for emergency vehicles.

47. Mr. Hung then testified that he had never observed vehicles parking on the side for the restaurant located at 214 Bay Avenue (Lot 24) and that most patrons simply park on the street.

48. The Applicant returned to the May 6, 2021 meeting at which time Mr. Garito provided additional testimony and evidence demonstrating that sufficient space existed to permit a vehicle to perform a "k-turn" in order to exit from Lot 25 using the driveway on Lot 24. He then stated that an emergency vehicle would need to back out of the driveway because there was not enough space to turn around. Mr. Garito acknowledged that the tree in the rear of the subject Property would have to be removed.

49. Mr. Garito further testified that the project would improve the aesthetics of the neighborhood by eliminating a vacant lot and constructing a new, mixed-use structure which is a permitted use in the CBD Zone thereby making the best use of a very narrow and small property. He opined that a mixed-use development is consistent with the Master Plan, which promotes the

development of commercial uses in the CBD Zone. Mr. Garito stated that the proposed use represents the best use of the Property and, thus, the positives outweigh the negatives.

50. The Board once again recognized that the Applicant would need to enter into a Cross-Access Easement running with the land, subject to review and approval by the Board Engineer and Board Attorney. Mr. Garito testified that Lot 24 already had a *de minimis* exception from the Residential Site Improvement Standards (“R.S.I.S.”) from parking requirements and, thus, any use of Lot 24’s parking would increase that exception.

51. The Board inquired whether the Applicant had spoken to the owner of Lot 26 to see about sharing parking with same. The Applicant responded that he had spoken to the owner of Lot 26 but never received a definitive response and, thus, would again ask the owner of Lot 26 for access to his parking.

52. The hearing was then opened to the public at which time, Paul Arura, 7 Marine Place, expressed his support for the project and that an approval would be good for the Borough and consistent with the Master Plan.

53. Joseph Nardone, 196 Bay Avenue, testified that Mr. Huang is a good businessman and that he supported the application. It was his opinion that approving the application would send a strong message that projects consistent with the Master Plan would be looked upon favorably.

54. Chief Burton described the neighborhood surrounding the subject Property and noted that of the twelve (12) properties on the same side of the street as the subject Property, three (3) were vacant and six (6) developed with driveways (five of which have driveways and garages), while another property has a surface parking lot and the adjacent Chinese restaurant would share parking with the Applicant. He added that if the three (3) properties were developed, they too would have off-street parking.

55. Chief Burton further observed that at 1:45 p.m. on May 6, 2021 from Valley Street to Cedar Avenue there were only nine (9) cars parked on the street and that another observation during the evening of the same day found ten (10) cars parked on that stretch of the street. Chief Burton opined that, based on the Borough repaving and lining that stretch of roadway, there would be on-street parking for twenty-three (23) vehicles.

56. Chief Burton then noted that the opposite side of the street has twelve (12) properties and that nine (9) of those properties have driveways, whereas three (3) properties do not. He observed there was ample parking in the neighborhood and, thus, no parking concerns for the subject Property.

57. 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 Applicant's request for floor area ratio relief pursuant to N.J.S.A. 40:55D-70d(4) with along with preliminary site plan approval pursuant to N.J.S.A. 40:55D-46 and final Site plan approval pursuant to N.J.S.A. 40:55D-50 along with ancillary variance relief pursuant to N.J.S.A. 40:55D-70c(2) and a *de minimis* exception from the R.S.I.S. should be granted in this instance.

The Applicant requires (d)(4) FAR variance relief in order to permit the construction of a three-story, mixed-use structure, comprised of a commercial use on the first floor and residential use on the second and third floors. A proposed restaurant will be located on the first floor, with the second and third floors improved by two, two-bedroom apartments. The standard of review for a FAR variance is the same for that of a conditional use variance pursuant to N.J.S.A. 40:55D-70d(3). The New Jersey Supreme Court, in Coventry Square v. Westwood, 138 N.J. 285, 297 (1994), established a standard of proof in such cases. Proof to support a FAR variance, therefore, need only justify the municipalities continued permission for a use notwithstanding a deviation from the required FAR.

That standard of proof will focus both on the Applicant's and the Board's attention to the specific deviation from the FAR imposed by the ordinance, and will permit the Board to find special reasons to support the variance only if it is persuaded that the noncompliance with the FAR does not affect the suitability of the site for the use. Thus, a FAR variance applicant must show that the site will accommodate the problems associated with the floor area ratio even though the proposal does not comply with the ordinance established to address those problems.

With respect to the negative criteria, an applicant must demonstrate that the variance can be granted without substantial detriment to the public good. N.J.S.A. 40:55D-70d. The focus is on the effect to the surrounding properties of the grant of the variance for the specific deviations from the floor area ratio imposed by the ordinance. The Board of Adjustment must evaluate the impact of the proposed FAR variance upon the adjacent properties and determine whether or not it will cause such damage to the character of the neighborhood as to constitute a substantial detriment to the public good.

In addition, the applicant must also prove that the variance will not substantially impair the intent and purpose of the zone plan and zoning ordinance, N.J.S.A. 40:55D-70d. The Board of Adjustment must be satisfied that the grant of the FAR variance for the specific project at the designated site is not irreconcilable with the municipality's legislative determination that the standard should be imposed on all densities in that zoning district.

The Board finds the Applicant has satisfied the positive criteria. The Applicant has demonstrated that despite exceeding the Borough's maximum floor area ratio requirements, the subject Property remains suitable for the permitted use. The Applicant has provided uncontroverted proofs that the subject Property is distinguishable from others in the Zone. It is located in a flood zone which makes construction more difficult. The size, shape, and topography of the subject Property are distinguishable due to the small size of the lot. Any improvement would likely necessitate variance relief from the maximum floor area ratio requirements. These factors in totality distinguish the subject Property from others in the Zone. The Applicant has also proposed a development which will take a vacant underutilized lot and replace same with a visually desirable mixed-use project which is permitted by the Zoning Ordinance. The improved aesthetics

will benefit the entire neighborhood and therefore promote the goals of planning as enumerated in N.J.S.A. 40:55D-2. These goals of planning are specifically being advanced on the subject Property due to the previously enumerated distinguishing factors. The Board also finds that sufficient parking exists along the street to accommodate both residential and commercial vehicles. The location of parking on the adjacent lot further provides enough space for the mixed use development. The Board finds that the subject Property remains suitable despite the floor area ratio measurement. The positive criteria has therefore been satisfied.

The Board also finds that the negative criteria has been satisfied. The Board is persuaded that the traffic increase associated with the proposed development is not appreciably different from the traffic increase which would be created with any other type of permitted use on the subject Property. Although on-site parking is less than what is required, thereby necessitating a cross-access easement with Lot 24, the Board finds that any development of the Property would result in the Applicant seeking relief from the R.S.I.S. parking space requirements. The Board therefore concludes that the proposed development will not result in a substantial impairment to the zone plan and zoning ordinance, and no substantial detriment to the public welfare. The negative criteria has therefore been satisfied and the Board further finds that the Master Plan encourages mixed-use and commercial development in the CBD Zone.

The Board further concludes that the positive criteria substantially outweighs the negative criteria and that the floor area ratio variance relief may be granted pursuant to N.J.S.A. 40:55D-70d(4).

The Board further finds that the Applicant 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 Applicant has satisfied the positive criteria with regard to the previously enumerated requests for variance relief from maximum lot coverage and maximum building coverage. The Board will address the required variances collectively. The Board finds that the proposed development eliminates a vacant lot and will create a mixed-use building with commercial and residential uses, consistent with the prevailing neighborhood scheme. The uses are also permitted by Ordinance. The mixed-use building proposed to be constructed thereon would be a permitted use and one which is consistent with the Master Plan. The Board finds that the application advances the goals of planning contained in the Municipal Land Use Law as enumerated at N.J.S.A. 40:55D-2 by contributing to the wellbeing of the neighborhoods and preservation of the environment; promoting adequate air, light and open space; and promoting to a desirable visual environment through creative development techniques and civic design/arrangements. The Board specifically finds that the Applicant has proposed an attractive mixed-use development. The Board therefore finds that the positive criteria has been satisfied.

The Board also finds that the negative criteria has been satisfied. The proposed development of the existing vacant lot into a mixed use building with commercial and residential uses is consistent with the prevailing neighborhood scheme. As previously stated, the community will also benefit from the elimination of the vacant lot which would be replaced by a mixed-use development. The Board finds that any development of the Property would result in the Applicant seeking relief from the R.S.I.S. parking space requirements and, even with this relief, the application also will not result in any perceptible increase in noise or traffic. The Board therefore finds that the proposed variance relief does not result in a substantial impairment to the zone plan or the zoning ordinance and no substantial detriment to the public good. The Applicant has therefore satisfied the negative criteria.

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

The Applicant also requires a *de minimis* exception from the R.S.I.S. where sixteen (16) parking spaces are required and five (5) are being proposed with three (3) of the proposed spaces being provided by Lot 24 by way of a to-be-entered-into cross-access easement between Lot 24 and Lot 25. Relief from the R.S.I.S. is not subsumed by the grant of a FAR variance relief because it is a State regulation. The Board finds the Applicant provided persuasive professional testimony that the proposed exception is reasonable considering the limitations of the subject property and is limited in scope due to the previously enumerated distinguishing characteristics of the subject Property. The Applicant also identified available parking in the area. This decision is based upon an understanding of the existing infrastructure and the impact on public health and safety, the Board finds that a *de minimis* exception from the R.S.I.S. is appropriate pursuant to N.J.A.C. 5:21-3.1.

With the exception of the above relief, the Applicant has complied with all other zoning, site plan, and design ordinance requirements. The Board therefore finds that preliminary site plan

approval pursuant to N.J.S.A. 40:55D-46 and final site plan approval pursuant to N.J.S.A. 40:55D-50 are appropriate in this instance.

NOW, THEREFORE, BE IT RESOLVED by the Land Use Board of the Borough of Highlands on this 3rd day of June 2021, that the action of the Land Use Board taken on May 6, 2021, granting Application No. LUB 2019-05, for (d)(4) FAR variance relief pursuant to N.J.S.A. 40:55D-70d(4) along with preliminary site plan approval pursuant to N.J.S.A. 40:55D-46 and final site plan approval pursuant to N.J.S.A. 40:55D-50 along with ancillary variance relief pursuant to N.J.S.A. 40:55D-70c(2) and a *de minimis* exception from the R.S.I.S. 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 Applicant shall comply with all recommendations contained in the reports of the Board professionals.
3. The Applicant shall enter into a cross-access easement with Block 64, Lot 24 for parking and ingress/egress subject to review and approval of the Board Engineer and Board Attorney.
4. The Applicant shall make a good faith effort to ask the property owner of Katz Grill, located at 208 Bay Avenue (Block 64, Lot 28.01) to use his/her parking lot.
5. All air conditioning units shall be located on the roof top and be appropriately screened pursuant to the review and approval of the Board Engineer.
6. All outdoor non-security lighting shall either be turned off, dimmed or subject to motion detectors after dusk.
7. Any future modifications to this approved plan must be submitted to the Board for approval.
8. The Applicant shall provide a certificate that taxes are paid to date of approval.
9. 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.
10. 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: Laurie LaRussa

SECONDED BY: Chief Rob Burton

ROLL CALL:

YES: Chief Rob Burton, Laurie LaRussa, Christian Lee, Frank Montecalvo, Jaclyn Walsh

NO:

ABSTAINED: None

CONFLICTED: Chair Rob Knox

INELIGIBLE: Mayor Carolyn Broullon, Bruce Kutosh, Lorine Pendleton

ABSENT: Councilmember Kevin Martin, Helen Chang, Miranda Nash

DATED: June 3, 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 June 3, 2021.

Michelle Hutchinson, Secretary
Borough of Highlands Land Use Board

BOROUGH OF HIGHLANDS LAND USE BOARD

EXHIBITS

Case No. LUB-2019-05/210 Bay Avenue, LLC

(d)(4) Floor Area Ratio Variance Relief with Preliminary and

Final Site Plan Approval

With Ancillary Variance Relief

March 4, 2021 & May 6, 2021

June 3, 2021

- A-1 Land Use Board Application, dated April 10, 2019.
- A-2 Affidavit of Applicant, dated February 26, 2019.
- A-3 Denial of Development Permit, dated January 30, 2019.
- A-4 Tax Account Data from Borough of Highlands.
- A-5 Survey of Block 64, Lot 24 (214 Bay Avenue) prepared by Michael S. Lynch, P.L.S., dated March 14, 2019.
- A-6 Architectural Plans prepared by Catherine Franco, A.I.A., consisting of two (2) sheets, dated September 1, 2019.
- A-7 Site Plan prepared by A.J. Garito, Jr., P.E., consisting of four (4) sheets, dated December 1, 2019.

- A-8 Passenger Car Turning Template prepared by A.J. Garito, Jr., P.E., consisting of one (1) sheet, dated April 26, 2021.

INTEROFFICE REPORTS

- B-1 Board Engineer’s Review Letter of Site Plat Requirements (Completeness), dated April 26, 2019.
B-2 Board Engineer’s Fee and Escrow Calculation Letter, dated April 26, 2020.
B-3 Board Engineer’s Amended Review of Site Plan Plat Requirements (Completeness), Revised March 4, 2019.
B-4 Board Engineer’s First Engineering Review Letter, dated November 17, 2020.

3. Capital Plan Review and Recommendation

**RESOLUTION
BOROUGH OF HIGHLANDS LAND USE BOARD
RESOLUTION OF MEMORIALIZATION
MONMOUTH COUNTY, NEW JERSEY
CAPITAL PLAN REVIEW AND RECOMMENDATION**

**Recommendation Made: May 6, 2021
Memorialized: June 3, 2021**

**MATTER OF BOROUGH OF HIGHLANDS
(NEW BOROUGH HALL)**

WHEREAS, the Borough of Highlands (hereinafter referred to as the “Borough”) has presented to the Highlands Land Use Board (hereinafter referred to as the “Land Use Board”) for the Land Use Board’s review and recommendation pursuant to N.J.S.A. 40:55D-31a (hereinafter, the “Section 31 Review”), for construction of a new Borough Hall. The subject property is designated as Block 37, Lots 12.01 and 13, as depicted on the Tax Map of the Borough of Highlands, and more commonly known as 151 and 159 Route 36 in the Borough; and

WHEREAS, a public hearing was held before the Land Use Board on May 6, 2021; and

WHEREAS, the Land Use Board has heard testimony and comments from the Borough and its consultants, and with the public having had an opportunity to be heard; and

WHEREAS, neither an application nor fee is required by Borough Ordinance in connection with a Section 31 Review, nor is the Borough required to provide notice for a Section 31 Review pursuant to the Municipal Land Use Law, and it otherwise appearing that the jurisdiction and powers of the Land Use Board have been properly invoked and exercised.

NOW, THEREFORE, does the Highlands Land Use Board make the following findings of fact with regard to this Plan Review:

1. The Borough Attorney, Andrew Ball, Esq., introduced the Section 31 Review and stated that the Borough Architect, Kevin Settembrino, PA (Settembrino Architects) would discuss the Project in detail.

2. Testimony was taken from Mr. Settembrino for the Borough of Highlands. Mr. Settembrino stated that the purpose of the Project was to construct a new Borough Hall at the intersection of Route 36 and Miller Street consistent with the architectural plans and drawings submitted to the Borough.

3. Mr. Settembrino testified that the proposed building would have two stories and that the site would be bifurcated with two levels of parking. The first level of parking is proposed to be located off of Route 36, with the second level of parking located off of Miller Street. The lower level parking is proposed to be reserved for the Police Department, whereas the second level of parking will be for public access and administration.

4. Mr. Settembrino further stated that the first floor of the building would house the Police Department, as well as provide a public entrance. The second floor of the building would contain approximately 7,500 s.f. and provide for a public entrance from the second level parking lot. The second floor of the building would house the Borough administration, court/council chambers, a public area with service windows, and a lobby.

5. The Project design is based off of, in part, the Officer's Row buildings on Sandy Hook and is complimented with modern features such as the green roof and has energy-efficient components including solar panels.

6. The Board asked whether the proposed courtroom space would be large enough to house a full Land Use Board meeting and what the capacity is in the courtroom. Mr. Settembrino responded that the courtroom would be large enough for a Land Use Board Meeting. He was uncertain as to the capacity of the courtroom but indicated that there would be sufficient seating and space for the public.

7. The Board also inquired whether there would be signage from the entrance off of Route 36, directing the public to the second level parking for access to the administration. Mr. Settembrino responded that there would be ample signage and wayfinding for members of the public, directing them where to go.

8. The Board expressed that the building would be aesthetically pleasing.

WHEREAS, the Highlands Land Use Board, having reviewed the proposed Capital Plan of the Borough of Highlands, and having heard the testimony of the witnesses, hereby concludes that it supports the construction of a new Borough hall at the subject Property and has no other comments or recommendations.

BE IT FURTHER RESOLVED that the Board secretary is hereby authorized and directed to cause a notice of this resolution to be published in the official newspaper at the

Borough's expense and to send a certified copy of this Resolution to the Borough 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: Chief Burton

SECONDED BY: Ms. LaRussa

ROLL CALL: Mayor Broullon, Chief Burton, Ms. LaRussa, Mr. Lee, Councilmember Martin, Mr. Montecalvo, Vice Chair Tierney

YES: Mayor Broullon, Chief Burton, Ms. LaRussa, Mr. Lee, Councilmember Martin, Mr. Montecalvo, Vice Chair Tierney

NO: None

ABSTAINED: None

ABSENT: Chairman Knox lost connectivity and was, thus, absent from voting.

DATED: May 6, 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 June 3, 2021.

Michelle Hutchinson, Secretary
Borough of Highlands Land Use Board

HEARINGS ON NEW BUSINESS: None

1. LUB2020-07: 9 Shrewsbury Avenue, Block 42 Lot 2, Char-Ron, Variance for New SFD

Mr. Dustin Glass stated that the applicant submitted new plans earlier today but they can not use it as they were not submitted in a timely manner. However, if the Board is comfortable voting without seeing the new materials, they could give conditional vote, subject to approval. The applicant can choose to continue with testimony without exhibit or they can postpone. Richard Sciria, attorney for applicant, said that they were ready to proceed without exhibit. Laurie LaRussa and Mayor Carolyn Broullon wished to see new plans. Mr. Sciria explained that the project is essentially the same but with setback variance minimized. Mr. Glass stated that the applicant will give testimony and overview of project and that the Board will vote at a later date.

Mr. Sciria gave an introduction to the applicant and an overview of the project –a 3-bedroom, single-family dwelling. They're asking for 8 bulk variances, with 4 pre-existing on an 1,800 sq. ft. lot. Ms. Jaelyn Walsh asked if the applicant can share any visuals.

Mr. Charles LaRue was sworn in to testify that he has consent of the owner, Mr. Philip Barbetta, and his history with Highlands.

Mr. Marc Leber was sworn in as the applicant's engineer. He gave his credentials and proceeded to give the background of the property. He also then listed the variances the project seeks and how the new plans differ from the previously submitted plans. This vacant lot has been as-is for about 50 years. Mr. Leber then addressed the points where such variances could be permissible and concluded testimony for the applicant.

Mr. Roberty Yuro mentioned that the amendment is substantial and wanted more time to review the new plans. He recommended that Mr. Leber present again at the next meeting.

Chair Knox agreed that the engineer should be given more time to review the new plans.

Mr. Glass stated that since the applicant wants to carry their application to a future date so that their new plans can be permitted, the public portion should hold until then. If they need to carry, there is no need to re-notice.

Mr. Sciria agreed to carry to the August 5, 2021, meeting with no new notice.

Vote to carry the application to August 5, 2021, meeting:

Offered by: Mr. Kutosh

Seconded by: Mr. Montecalvo

NO FURTHER VOTES WERE TAKEN

Conflicted: Ms. Walsh

Absent: Council Member Martin, Ms. Chang, Ms. Nash, Vice Chair Tierney

2. LUB2019-12: 5 Lighthouse Road, Block 19 Lot 16.02, Whitfield –Minor Subdivision

Mr. Matt Kalwinsky, attorney for the applicant, gave overview of the property and project. Mr. G. Michael Whitfield was sworn in to give history of ownership of property within his family and his history with Highlands. Mr. Peter Manning was sworn in to testify that he plans to move from Shrewsbury to Highlands. He plans to buy the subdivided lot with the projected construction. He also gave his history with Highlands and his family's connection with Highlands.

Mr. Marc Leber was sworn in as engineer for the applicant. He gave overview of the property and the evolution of the project ending with the most recent that was conceived with feedback from neighbors. He proceeded to list the 5 variances the project needed. He noted that while the project seeks steep slope variance, the house will not be on a slope itself. He stated that the project will comply with the Board's engineer's review. Mayor Broullon added that she thinks the project would fit in the area.

Mr. Leber described the style of the house as he was not permitted to show the rendering that was not previously submitted.

Mr. Lee asked for further clarification of the proposed vegetative approach to keep the slope. Mr. Leber stated that they can submit a landscape plan, which Mr. Lee deemed would be helpful.

For Public questions, Mr. Doug Widman, of 15 Ocean Street, asked if Mr. Whitfield is ok with the blocked view that the new project would cause for his existing house. Mr. Whitfield answered yes as they're looking to downsize and property is currently too much to upkeep. Mr. Widman proceeded to ask more questions to the applicant, professionals, and Mr. Manning.

Ms. Megan Ekleberry, of 7 Ocean Street, asked for clarification of the position of the proposed structure.

Mr. Glass reminded the public to keep to questions and save their comments for later. He stated that measurements of structure will have to be by code.

For Public comments, Mr. Michael Stock, of 19 Ocean Street, was sworn in to express his shared concerns with Ms. Ekleberry. He believes that the blocked views would affect his property value. He also stated concerns that the addition of proposed driveway would create dangerous corner.

Ms. Ekleberry, having been sworn in, stated that she bought her home for the views. She believes that the project benefits no one but the applicant financially. She opposes the project.

Mr. Leber remarked that of the 10-12 houses, 4 houses have setbacks less than the proposed project on Ocean Street.

Mr. Widman, after being sworn in, suggested that the applicant and Mr. Manning sign a sworn statement complying building as described.

Mayor Broullon suggested that the Board adjourns to a later date with more exhibits to make a more informed decision. Chair Knox agreed but deferred to Mr. Kalwinsky and Mr. Leber.

Mr. Kalwinsky noted that the project is not asking for a height variance, only the steep slope ordinance.

Chair Knox stated that the Board was concerned about the potential obstructed views, the creation of the proposed lot, and addressing neighbors' issues.

Mr. Kalwinsky asked for a recess to confer with his client. He then reported that they want to carry to the August meeting to address neighbors' concerns. Mr. Glass offered that they may want to confer with the Board engineer for further suggestions.

Vote to carry the application to August 5, 2021, meeting:

Offered by: Mayor Broullon

Seconded by: Ms. LaRussa

Ayes: Mayor Broullon, Chief Burton, Ms. LaRussa, Mr. Lee, Mr. Montecalvo, Chair Knox

Nays:

Conflict: Mr. Kutosh

Absent: Councilmember Martin, Ms. Chang, Ms. Nash, Vice Chair Tierney

HEARINGS ON OLD BUSINESS: None

APPROVAL OF MINUTES OF MAY 6, 2021 MEETING

Offered by: Mr. Lee

Seconded by: Mayor Broullon

Ayes: Mayor Broullon, Chief Burton, Ms. LaRussa, Mr. Lee, Mr. Montecalvo, Ms. Walsh, Chair Knox

Nays:

Ineligible: Mr. Kutosh; Ms. Pendleton

Absent: Councilmember Martin, Ms. Chang, Ms. Nash, Vice Chair Tierney

COMMUNICATION AND VOUCHERS:

Mr. Glass informed the Board that the submitted Ordinances are for information only and does not require any vote of the Board:

1. **O-21-21** An Ordinance Amending the Land Use Provisions of the Borough Code to Address Prohibited and Conditional Uses for Cannabis Establishments; and
O-21-23 An Ordinance Amending Article XVII, Business and Waterfront Zone Districts, Section 21-91, Central Business District (CBD) and Section 21-92.01, Highway Oriented Business
2. Approval of Invoices from T&M Associates and Weiner Law Group

ADJOURNMENT

Offered by: Ms. LaRussa

Seconded by: Mr. Montecalvo

All in favor

None Opposed

Adjourned at 10:17pm.

I, Nancy Tran, certify that this is a true and correct record of the actions of the Borough of Highlands Land Use Board on July 1, 2021.

Nancy Tran, Land Use Board Assistant Secretary