

Borough of Highlands
Planning Board (Land Use Board)
Regular Meeting
April 12th, 2017

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

Mr. Stockton called the meeting to order at 7:30 pm.

Mr. Stockton asked all to stand for the Pledge of Allegiance.

Mr. Stockton read the following statement: As per requirement of P.L.1975, Chapter 231 notice is hereby given that this is a Regular Meeting of the Borough of Highlands Planning Board (Land Use Board) and all the requirements have been met. Notice has been transmitted to the Asbury Park Press and the Two River Times. Notice has been posted on the public bulletin board.

Roll Call:

Present: Mr. Blewett, Mr. Card, Mr. Gallagher, Mr. Knox, Mr. Colby, Mr. Francy, Mr. Braswell, Mr. Stockton, Mr. Nolan, Mr. Lee,

Absent: Mr. O'Neal, Mr. Fox, Ms. Ryan,

Motion for adjournment and any other motions: None

Applications scheduled for completeness review:

2017-03 30 Miller St, Ed & Lori Paher – Bulk Variance to construct a new single family dwelling. The Applicant is proposing to construct a single family house consisting of:

- Two bedrooms,
- Living room,
- Kitchen,
- Garage,
- New driveway,

Mr. Paher stated that he is seeking a relief from the Board for a front yard setback (20 ft. is required, 10.2 ft. is being proposed).

Mr. Nolan made a motion to deem the application complete and schedule it for May 10th agenda, seconded by Mr. Francy.

Roll Call:

Mr. Blewett, Mr. Card, Mr. Gallagher, Mr. Knox, Mr. Colby, Mr. Francy, Mr. Braswell, Mr. Stockton, Mr. Nolan,

NAY: None

2016-14 Shama Kajiji, 15 Seadrift Ave – Bulk Variance to rebuild a new single family dwelling. The application was carried to April 12th meeting.

Dale Leubner, the Boroughs Flood Plan Administrator, was sworn in at 8:02 pm. He stated that FEMA has afforded the Borough an opportunity to adopt 2014 maps. Therefore, the Borough will be adopting the maps this year. 15 Seadrift is currently in a V Flood Zone, but when the new maps get adopted it will be in AE Zone. The Applicant has two possibilities:

1. Wait for the new maps to be adopted and then she can keep the existing foundation, or
2. Remove/change the foundation.

In addition, New York has filed an appeal with FEMA stating that the BFEs were too high. They have won the appeal and now FEMA is back to a "drawing board", Mr. Leubner added. In June, FEMA will issue final letter of determination that 2014 maps will now become 2017 effective maps. The only VE Zone will be on Marine PL and all the other properties will change to AE Zone.

Phil Hollembeak had a question about the construction in VE Zone vs. AE Zone. The response was that VE Zone there is only pier construction with open foundation allowed, where in AE Zone you can enclose the foundation provide an appropriate flood venting.

In addition, once a variance is granted the approval stays with the land not the owner or the structure. Even if the house burns down, or in this case, is severely damaged by the storm, the previously granted variance stays with the land. Thus, the applicant is proposing to make the overall size of the structure smaller than in her original application. Once the house was removed by the contractor, the applicant received a "stop work order" from the Construction Official, which in her opinion was given in error, and a new application had to be filed for a variance.

Questions from the Board:

Q: Does it matter if the house was taken down by the storm or was removed by the contractor?

A: It does not matter, since the previously granted approvals run with the land.

Q: Does every contractor need a permit to demolish a house?

A: Yes, s/he does.

Q: Why isn't the contractor present at the meeting to testify?

A: Because the Applicant is going to take him to court.

Ms. Krimko, the applicant's attorney, stated that the Board needs to analyze the application that is being presented tonight vs. what was approved. If there are no detrimental changes, which there are none, there is no additional variance needed.

Q: If the house was demolished and the application was made to the Board it would not allowed to be re-constructed .8ft from the property line.

A: Yes, that might be the case if a Variance was needed, but the applicant had previously gone to the Board and was granted the Variance for .8ft side yard setback.

Q: If Variance was previously granted and then the applicant made changes, would they have to come back in front of the Board?

A: Yes, it is usually noted in every resolution. But this is not the case here. No detrimental changes are being proposed. In addition, if the Flood Zone does not change the applicant will have to comply with V Zone construction. No certificate of compliance will be issued unless it confirms with the flood zone.

Q: If the variance is approved tonight, what is going to happen with those variances approved in 2014?

A: There are going to be abandoned.

12 Seadrift Ave, Council Woman Claudette Darrigo wanted to know if the Board can listen to audiotape from 2014?

The response was that No, it is not necessary.

Phil Hollemeak, 17 Seadrift Ave wanted to know how this house is being permitted to be built in the same location as the old house was.

The response was because it has vested rights.

Paul Aliwer, 14 Seadrift Ave stated that property had not been secured or maintained during the construction. It has trash, debris and family of raccoons, living in the newly constructed foundation.

The Applicant agreed to tight up the property.

Phil Hallemeak, 17 Seadrift Ave had an issue with the new foundation wall being built so close to property line. He does not think that it is an improvement to the neighborhood and is disposed with the Board's decision to grant a variance. He is puzzled on the legal testimony.

Motion to approve the application with conditions made by Mr. Nolan, seconded by Mr. Blewett.

- Clean up the site,
- FEMA compliance,
- Comply with T&M review letter,
- Modify the construction to new approvals,

Roll Call:

Mr. Blewett, Mr. Gallagher, Mr. Knox, Mr. Colby, Mr. Francy, Mr. Braswell, Mr. Stockton, Mr. Nolan, Mr. Lee,

NAY: None

Mr. Stockton stepped off a dais at 09:28pm.

2017-02 Anstatt, 43 Washington Ave – Bulk Variance for new shed. The application was a continuation from March 09th meeting. The Applicant was sworn in at 09:29 pm and made a brief testimony in regards to the shed and fence that was already installed on the property. Moreover, the applicant received a letter from a Zoning Officer stating that the fence was removed. Mr. Anstatt is asking for a variance for the shed that was already constructed. He added that his property is so small and installation of a shed made him go over the allowable lot coverage.

Questions from the Board:

Q: How big is the shed?

A: He had a 10x12 shed that was destroyed in the storm and replaced with 14x18 shed.

Q: Is that a permanent structure?

A: Yes.

Q: When was the old shed put up?

A: About 20 years ago.

Moreover, the newly installed fence was erected about 2 ft. onto the adjacent property, at 45 Washington Ave, and is going to be removed. The Board has requested a copy of a new survey reflecting the change or a letter from a Zoning Officer stating that the fence was removed.

Mr. Braswell has recused himself from voting on the application at 10:30 pm.

2017-01 347 Pavonia Ave, INC 20 Gravelly Point Road – Height Variance for a stairway/access to roof deck. The Applicant did not attend the completeness review meeting.

Mr. Fisher, Applicant's Attorney, and Mr. Caruso –the Applicant were present at the completeness review hearing. They stated that there was an old, dilapidated house that was demolished and new structure was build. The Applicant has put a spired staircase and because of close distance to the power lines he had to enclose them. That triggered a D Variance for the height which he is seeking from the Board. The Board asked for the following documents:

- Bring permission from Gravelly Point Road Association,
- Change revision date and re-submit copy of a survey,

Mr. Nolan made a motion to deem the application complete and schedule it for April 12th agenda, seconded by Ms. Ryan.

Roll Call:

Mr. Gallagher, Mr. Francy, Mr. Stockton, Ms. Ryan, Mr. Nolan, Mr. Lee,

NAY: None

2016-14 Shama Kajiji, 15 Seadrift Ave – Bulk Variance to rebuild a new single family dwelling. The application was carried to April 12th meeting.

Mr. Gallagher made a motion to carry the application to April 12th meeting without the need of further notice, seconded by Mr. Nolan.

Roll Call Vote:

AYE: Mr. Gallagher, Mr. Francy, Mr. Knox, Mr. Braswell, Mr. Stockton, Mr. Fox, Ms. Ryan, Mr. Nolan, Mr. Lee,

Mr. Stockton has stepped off a dais for possible conflict at 8:05 pm.

2017-02 Anstatt, 43 Washington Ave – Bulk Variance for new shed. The application was a continuation from January 12th meeting. The Applicant made a brief testimony in regards to the shed and fence that was already installed on the property. Moreover, the newly installed fence was erected about 2 ft. onto the adjacent property, at 45 Washington Ave, and is going to be removed. The Board has requested a copy of a new survey reflecting the change or a letter from a Zoning Officer stating that the fence was removed.

Mr. Gallagher made a motion to carry the application to April 12th meeting, seconded by Mr. Francy.

Roll Call:

Mr. Gallagher, Mr. Knox, Mr. Francy, Mr. Braswell, Mr. Fox, Ms. Ryan, Mr. Nolan, Mr. Lee,

NAY: None

Mr. Stockton went back on a dais at 08:22 pm.

2016-13 Freglette, 210 Bay Ave – Variance for mixed use commercial/residential use of the building. The subject property is located with frontage on Bay Ave and is located in the Central business (B-2) Zone. The lot area is approximately 2,500 square feet. The existing lot contains a two-story dwelling with porch and concrete pad in the rear. The applicant is proposing to demolish the existing dwelling and construct a three-story mixed use building with commercial usage on the first floor and apartments on the second and third floor. The proposed mixed use is not permitted use for the B-2 Zone. The proposal is consistent with the newly adopted Master Plan.

The Joseph Freglette, the Applicant, was sworn in at 8:29 pm and presented his testimony. He stated that he purchased the property in 2016. It was a vacant structure with no occupancy/tenants in it. His intent is to take down the dilapidated house and rebuild with a mixed use, commercial on a first floor, residential on a second and third floor.

Catherine Franco, Applicant's Architect, was sworn in at 8:31 pm and presented her testimony. She had entered the following into evidence:

A-1, Proposed construction, grade plan, and survey,
A-2, Residential floor plan and elevations,
A-3, Illustration of Bay Ave, Chinese Restaurant, the subject property, and Kats next door,
A-4, Study conducted by Ms. Franco,

The proposal is to construct a new three story building consisting of:

- 1st Floor: Commercial,
- 2nd Floor Residential apartments with 2 bedrooms in each unit,
- 3rd Floor Residential apartment with 3 bedrooms,

The commercial unit is going to be 12,000 square feet with box planters in front. The residential units will be in 1200 square feet with deck on a back. Ms. Franco went on about the side and rear yard setback and pointed out that a Bulk variance is not required, only a D Variance. She also added that shingle style with columns, archers, and planters are being proposed to beautify the area. As to negative criteria, Ms. Franco testified that she could not find any.

The Board has asked the following questions:

Q: How about lack of off street parking?

A: There is lots of on street parking. Ms. Franco did a study. She stated that there are 10 building where 7 out of 10 are residential with off street parking. In addition, there are 15 street parking spaces on a north side of the street.

Q: What is behind the building?

A: There are only residential buildings in the rear.

Q: Is it possible to acquire the back of the property from Kats parking lot?

A: No, there is a wall on the back.

Q: Who is the owner to the left?

A: A Chinese Place.

Q: Residential requires 2.5 off street spaces?

A: Yes.

Q: How many spaces did you attribute for commercial use?

A: The only businesses that are there are China Sea, another corner property, and B&B.

Q: Is there another mixed use business in the area?

A: Yes, the shirt place.

Q: Can you put parking on a first floor?

A: Not really, the lot is not big enough.

Q: Have you look for a possibility for off street parking?

A: Yes, Kats parking lot but they did not want to give up any spaces.

Q: Can you seek an easement from Kats?

A: No. Kats has 17 parking spaces and there is another vacant lot that is for sale.

Q: Have you tried purchasing the lot?

A: No.

Q: What is the existing grade elevation?

A: Not sure.

Q: Do you know what Flood Zone the property is located in?

A: Yes, it is in AE-11.

Q: Will it be flood proofed?

A: Yes.

Q: What kind of business are you proposing to open?

A: Not sure yet.

Open for Public Questions:

The resident at 51 4th, Christine Fair, Street was concerned with her backyard. The subject property also had a huge tree. There are problems with the roots and flooding. What is going to be done to correct the drainage concerns and the off street parking situation?

The response was that the tree is going to be removed and drainage plan/calculations will be submitted to the Borough's Engineer for review.

How is the privacy going to be addressed for the residents on the back of the building?

Ms. Franco responded that the second floor can be addressed with fence/shrubbery, but the third floor there is not much that can be done.

Is the old fence going to be removed? The Applicant responded yes.

China Sea, Yan owner of 214 Bay Ave. He has parking space but wanted to point out that the new construction will not.

Steve Solom, at 205 Bay Ave, wanted to know if a study was done to increase the impervious coverage.

The response was no, it has not.

Another resident wanted to know where is:

- The grading plan,
- Is the tree going to be removed on the back?
- Where will the garbage be located?
- Can the width of the building be reduced?

The response was that all that will be submitted to the Board for the next hearing.

Jackie Greco, 215 Bay Ave, stated that the on street parking is horrible. People constantly keep parking in her driveway. The drainage is even worst. Does residential structure require 2 exits?

Ms. Franco responded that no, only one is required.

The resident at 207 Bay Ave wanted to point out that the tree is on two properties and it would need permission from both owners to be removed. It would also need a permit from the town to be removed.

205 Bay Ave, Steve Solov stated that he has a vested interest in the town. He does not see how the Applicant is seeking a hardship if his intent is to build the structure and sell it.

55 4th Street, Catherine Dupon, had a question about drainage.

The response was that it will be provided at the next hearing date.

Kim Adams wants the Board to keep in mind the volume of the customers. There is not enough parking for the residents as it is. The problem will only worsen if approved as proposed.

Mr. Nolan made a motion to carry the application to May 10th meeting, seconded by Ms. Ryan subject to providing:

- Add topographic and elevations to plans,
- Make the decks bigger,
- Trash collection,
- Drainage plan,
- Parking issue,

Roll Call:

Mr. Nolan, Ms. Ryan, Mr. Fox, Mr. Stockton, Mr. Braswell, Mr. Francy, Mr. Gallagher,

NAY: None

The Board took 5 min recess break.

Attendance after the break.

Mr. Gallagher, Mr. Francy, Mr. Braswell, Mr. Stockton, Ms. Ryan, Mr. Nolan, Mr. Lee,

Mr. Fox and Mr. Knox have left the meeting at 10:05 pm.

Resolution 16-228 authorizing the Land Use Board to Undertake a Preliminary Investigation to determine whether Block 105.107, Lot 1.1 and Block 84, Lot 2.01 Qualify for designation as areas in need of redevelopment.

The Board has briefly discussed the procedures with the Mr. Serpico. They sated that a budget must be established, RFPs send out to select a planner. It was agreed that more time needs to be granted to allocate proper funding.

Mr. Nolan made a motion to adjourn the discussion/study to April's meeting, seconded by Mr. Gallagher.

Roll Call:

Mr. Lee, Mr. Nolan, Ms. Ryan, Mr. Stockton, Mr. Braswell, Mr. Francy, Mr. Gallagher,

NAY: None

Consistency Report Pursuant to N.J.S.A. 40:50D-26. Introduction to Ord. 17-01 Amending Definition of Lot Coverage.

The Board discussed the amendment and agreed that is consistent with the Municipal Land Use and consistent with Master Plan, thus they have approved the change.

Mr. Stockton made a motion to approve the amendment, seconded by Mr. Nolan.

Roll Call:

Mr. Lee, Mr. Nolan, Ms. Ryan, Mr. Stockton, Mr. Braswell, Mr. Francy, Mr. Gallagher,

NAY: None

(9) Approval of Resolutions:

1. 2016-12 Harborside at Hudson's Ferry Block 101, Lot 27.02:

- **Amended Final Site Plan**

Mr. Nolan made a motion to approve the resolution, seconded by Mr. Francy.

Roll Call:

Mr. Nolan, Ms. Ryan, Mr. Stockton, Mr. Braswell, Mr. Francy, Mr. Gallagher,

ABST: Mr. Lee,

NAY: None

- **Lot Line Adjustment**

Mr. Nolan made a motion to approve the resolution, seconded by Mr. Francy,

Roll Call:

Mr. Nolan, Ms. Ryan, Mr. Stockton, Mr. Braswell, Mr. Francy, Mr. Gallagher,

ABST: Mr. Lee,

NAY: None

- **Minor Subdivision**

Mr. Nolan made a motion to approve the resolution, seconded by Mr. Francy.

Roll Call:

Mr. Nolan, Ms. Ryan, Mr. Stockton, Mr. Braswell, Mr. Francy,

ABST: Mr. Lee,

NAY: Mr. Gallagher,

Mr. Nolan made a motion to approve the minutes of December 08th meeting, seconded by Ms. Ryan.

Roll Call:

Mr. Nolan, Ms. Ryan, Mr. Stockton, Mr. Braswell, Mr. Francy, Mr. Gallagher,

ABST: Mr. Lee,

NAY: None,

Ms. Ryan made a motion to approve the minutes of January 12th meeting, seconded by Mr. Nolan.

Roll Call:

Mr. Nolan, Ms. Ryan, Mr. Stockton, Mr. Braswell, Mr. Francy, Mr. Gallagher, Mr. Lee,

ABST: None,

NAY: None,

Adjournment

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

Kathy Burgess, Acting Board Secretary