

**BOROUGH OF HIGHLANDS  
PLANNING BOARD  
REGULAR MEETING  
AUGUST 10, 2006**

Mr. Stockton called the meeting to order at 7:52 P.M.

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

Mr. Stockton made 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 and all requirements have been met. Notice has been transmitted to the Courier, the Asbury Park Press and the Two River Times. Notice has been posted on the public bulletin board.

**ROLL CALL:**

**Present:** Mr. Manrodt, Mr. Mullen, Mayor O'Neil, Mr. Urbanski,  
Mr. Schoellner, Mr. Stockton, Mr. Cefalo

**Late Arrival:** Mr. Kovic arrived at 7:53 P.M.

**Absent:** Mr. Bahrs, Mr. Gilson

**Also Present:** Carolyn Cummins, Board Secretary  
Jack Serpico, Esq., Board Attorney  
Jaclyn Flor, P.E., Board Engineer

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**PB#2005-2 Johnson, William  
Block 40 – Lot 5 - 78 Navesink Avenue  
Approval of Resolution**

Mr. Stockton read the title of the following Resolution for approval:

Mr. Mullen offered a motion to move on the adoption of the following Resolution:

**RESOLUTION DENYING THE MINOR SUBDIVISION  
AND VARIANCE APPLICATION OF  
WILLIAM H. JOHNSON, BLOCK 40, LOT 5**

**WHEREAS**, the applicant William H. Johnson, hereinafter referred to as the applicant is the owner of the property known as Block 40, Lot 5 on the Highlands Borough Tax Map, which property is located in the R-B Zone; and

WHEREAS, the applicant has applied for a two lot, Minor Subdivision with variances. The applicant proposes to subdivide the above captioned property into two lots and ultimately construct on proposed lot 5.02 a single family residence. A single family residence exists on proposed lot 5.01. The variances required were as follows;

1. Lot 5.01. A front yard setback of 7.1 feet whereas 35 feet is required. A side yard setback of 7.6 feet whereas 8 feet is required. A building height of 30.7 feet whereas 30 feet is the maximum permitted. All of these conditions are pre-existing in nature. This lot has frontage on New Jersey State Highway Route 36.
2. Lot 5.02. A variance or waiver from N.J.S. 40:55D-35, which prohibits the issuance of any permit for the construction of any building unless the lot upon which the building is to be located abuts a street giving access to the building. Due to the proposed lot being located on a "steep slope" as that term is defined in the Borough Ordinances access from Shore Drive is physically impractical. Therefore the applicant proposed an easement for access over lot 5.01 to lot 5.02.

**WHEREAS**, all jurisdictional requirements have been met and proper notice has been given pursuant to the Municipal Land Use Act and Borough ordinances, and the Board has jurisdiction to consider this application; and

**WHEREAS**, the Board considered this application at a number of public hearings and voted to deny the application at the June 8, 2006, meeting of the Board; and

**WHEREAS**, the Board heard the testimony of the applicant, William Johnson, his engineer Richard E. Stockton and the arguments of Counsel; and

**WHEREAS**, property owners within 200 feet of the subject property voice their objections to the application on the record; and

**WHEREAS**, the applicants submitted into evidence a number of documents including a Subdivision Map prepared by Richard E. Stockton dated February 24, 2005 which was entered into evidence; and

**WHEREAS**, the Board after considering the evidence and testimony presented on behalf of the applicants and the interested citizens if any has made the following findings of fact and conclusions based thereon:

1. The property is located in the R-B Zone, which permits the construction of single-family homes.
2. The variance requested for proposed lot 5.02 is substantial in nature since access to this lot from Shore Drive is not possible due to the severity of the slope and on-site parking access from Shore Drive is impossible as well.
3. Previous subdivisions on the block fronting on Shore Drive and Route 36 have had developable land above and below the steep slope and have met the direct access and parking requirements of the Borough.

4. The easement on lot 5.01 would effectively reduce the useable area of that lot to 4,500 square feet.
5. Borough Ordinance 21-65 L requires that all lots be suitable for their intended uses and where necessary be increased in size to compensate for conditions such as steep slopes, rock formations and flood conditions. Due to the existing steep slope conditions on the site it is not suitable for a subdivision.
6. Borough ordinances also require that all lots in the Borough have frontage on an improved street.

**WHEREAS**, the Board determined that the relief requested by the applicant could not be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the zone plan and zoning ordinance of the Borough of Highlands for the aforementioned reasons; and

**WHEREAS**, this resolution shall memorialize the Board's action taken to deny the proposed subdivision and variances at the public meeting held on June 8, 2006;

**NOW THEREFORE BE IT RESOLVED** by the Planning Board of the Borough of Highlands that the application for a two-lot subdivision and variances by William H. Johnson for the above captioned property is hereby denied for the reasons aforementioned herein.

Seconded by Mayor O'Neil and adopted on the following roll call vote:

**ROLL CALL:**

**AYES:**        **Mr. Kovic, Mr. Mullen, Mayor O'Neil, Mr. Urbanski**

**NAYES:**       **None**

**ABSTAIN:**    **None**

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**PB#2006-2 Branin, Gary  
Block 48 Lot 3 – 39 Cornwall Street  
Approval of Resolution**

Mr. Stockton read the title of the following Resolution for approval:

Mr. Urbanski offered a motion to move on the adoption of the following Resolution:

**RESOLUTION DENYING THE VARIANCE APPLICATION OF  
GARY BRAININ, Jr., BLOCK 48, LOT 3**

**WHEREAS**, the applicant Gary Brainin, hereinafter referred to as the applicant is the owner of the property known as Block 48, Lot 3 on the Highlands Borough Tax Map, which property is located at 39 Cornwall Street in the Borough of Highlands; and

**WHEREAS**, the applicant has applied for relief from Section 21-124 of the Borough Ordinances which section requires his home to be constructed at least one foot above the Base Flood Elevation for the lot. In this case that would require an elevation of 12 feet. The applicant's elevations are as follows:

1. Basement floor elevation of the proposed dwelling 4.2 feet.
2. The first floor elevation of the dwelling is 7.8 feet.
3. The top of the slab elevation of the attached garage is 5.2 feet; and

**WHEREAS**, Section 21-124 also provides the criteria for relief from the base elevation requirements; and

**WHEREAS**, all jurisdictional requirements have been met and proper notice has been given pursuant to the Municipal Land Use Act and Borough ordinances, and the Board has jurisdiction to consider this application; and

**WHEREAS**, the Board considered this application at a number of public hearings and voted to deny the application at the June 8, 2006, meeting of the Board; and

**WHEREAS**, the Board heard the testimony of witnesses including the applicant, Gary Brainin and the arguments of Counsel; and

**WHEREAS**, the applicant submitted into evidence a number of documents; and

**WHEREAS**, the Board after considering the evidence and testimony presented on behalf of the applicant and the interested citizens if any has made the following findings of fact and conclusions based thereon:

1. The hardship if any testified to by the applicant was self imposed since the applicant did not design the construction of the project to meet the Ordinance requirements.
2. The basis for the requested variance was subjective in nature and not due the physical condition of the property. The reasons offered by the applicant were his growing family, the cost of compliance and that compliance would detract from the aesthetics of the house.
3. Some improvements to the residential section of the property were made before the application was heard by the Planning Board.

4. The applicant made no attempt to minimize or mitigate the degree of the relief requested by re-designing the project.

**WHEREAS**, the Board determined that the relief requested by the applicant could not be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the Flood Ordinance of the Borough of Highlands for the aforementioned reasons; and

**WHEREAS**, this resolution shall memorialize the Board's action taken to deny the proposed subdivision and variances at the public meeting held on June 8, 2006;

**NOW THEREFORE BE IT RESOLVED** by the Planning Board of the Borough of Highlands that the application of Gray Brainin for relief from the Flood Plain Ordinance base elevation requirements for the above captioned property is hereby denied for the reasons aforementioned herein.

Seconded by Mr. Mullen and adopted on the following roll call vote:

**ROLL CALL:**

**AYES:**            **Mr. Mullen, Mr. Urbanski, Mr. Schoellner, Mr. Cefalo,  
                         Mr. Stockton**

**NAYES:**        **None**

**ABSTAIN:**      **None**

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**PB#2006-3 Catsaros, Gregory  
Block 14 Lot 3.01 – 30 Grand Tour  
Approval of Resolution**

Mr. Stockton read the title of the following Resolution for approval:

Mr. Stockton recused himself from this matter and Mr. Kovic Chaired this portion of the meeting.

Mr. Schoellner offered a motion to move on the adoption of the following Resolution:

**RESOLUTION APPROVING THE MINOR SUBDIVISION  
AND VARIANCE APPLICATION OF GREGORY CATSAROS, BLOCK 14,  
LOT 3.01**

**WHEREAS**, the applicant referred to above is the owner of the above mentioned lot, which is located in the R-1.01 Zone; and

**WHEREAS**, the applicant has applied for a two (2) lot Minor Subdivision with variances. The applicant proposes to subdivide the above captioned lot into two new lots, one containing an existing single family residence and one vacant for future use for a single family residence; and

**WHEREAS**, variances and/or waivers required are as follows:

1. Proposed lot 3.011. A front yard setback of 34 feet where 35 feet is required.
2. Borough Ordinance 21-65 requires curbing to be installed on the existing lot frontages. The applicant has requested a waiver from this requirement.
3. The applicant requires relief from the requirements of the Borough Steep Slope Ordinance.
4. The applicant requires relief from the setback requirements for the retaining walls.
5. The applicant requires a variance for lot coverage for terraces with walls; and

**WHEREAS**, all jurisdictional requirements have been met and proper notice has been given pursuant to the Municipal Land Use Act and Borough ordinances, and the Board has jurisdiction to consider this application; and

**WHEREAS**, the Board considered this application at public hearings and decided the matter at the June 8, 2006, meeting of the Board; and

**WHEREAS**, there was extensive questioning of the applicant's witnesses by Rachael Stockton as well as direct testimony of Mrs. Stockton on the detrimental effects of the project on erosion and drainage in and around the site and the site engineering details and based thereon she was opposed to the project; and

**WHEREAS**, the Board after considering the evidence and testimony presented by the applicant and the interested citizens has made the following findings of fact and conclusions based thereon:

7. The property is located in the R-1.01 Zone.
8. The variance(s) requested are due to the shape, size and topographical conditions at the subject property.
9. The new lots will be in compliance with the applicable bulk provisions of the Borough Zoning Ordinance with the exception of the variances and/or waivers requested above.
10. The applicant has agreed to comply with the outstanding conditions and requirements if any, set forth in the T&M letter dated April 12, 2006, which is incorporated herein in full.

11. The areas of “steep slope” will be substantially located within the expanded footprint of the original house and the new driveway access to the proposed new vacant lot.
12. Due to limited areas of “steep slope” there is no substantial issue of soil stability at the site.
13. The applicant is not relieved from providing the final grading plan that is required by the Borough Ordinances for developing “steep slopes” to the Board Engineer for her review and approval.
14. Site drainage onto the existing street is a critical issue to any development on this street and must be addressed by the applicant to the satisfaction of the Board Engineer prior to and during the development process of this site.
15. The applicant agreed to comply with additional conditions set forth hereinafter.

**WHEREAS**, the Board determined that the relief requested by the applicant can be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the zone plan and zoning ordinance of the Borough of Highlands and that the variances are necessitated by the site conditions consistent with the criteria set forth in NJSA 40:55D-70c.

**WHEREAS**, the Board after considering the testimony and exhibits has found the proposed subdivision plan and variances to be acceptable with conditions.

**NOW THEREFORE BE IT RESOLVED** by the Planning Board of the Borough of Highlands that the application for a two lot minor subdivision and variances is approved contingent upon the following conditions being met;

1. All testimony, evidence and representations made by the applicant and its witnesses are incorporated herein.
2. Taxes, fees and escrow accounts shall be current.
3. The applicant will adhere to the findings of fact set forth above. The final plans for the project must contain the correct name, address and contact information of the applicant.
4. The applicant agrees to enter into a Developers Agreement with the Borough, if required to do so by the Borough.
5. If required by law, the approval of the application by the Monmouth County Planning Board and compliance with any conditions imposed by said Board. The applicant shall also file the appropriate application documentation with the Freehold Soil Conservation District for the project in addition to any other agency having jurisdiction over the project.

6. Expiration or removal of any moratorium imposed on the construction of the project by any County or State Agencies if any.
7. The applicant agrees to perfect the subdivision by Deeds. Said Deeds must be submitted to the Board Engineer and Attorney for review and approval and must further be recorded within the time provided within the Land Use Act.
8. The applicant will submit revised plans showing a revision to the driveway grading in order to avoid cars “bottoming out” at the driveway entrance. Said plans shall be submitted to the Board Engineer for her review and approval.
9. The revised plans shall also indicate that the front retaining wall(s) will be revised to the maximum height permitted by the ordinance in the area of the new driveway and be further modified to provide the appropriate site distances along Grand Tour. These modifications shall also be subject to the review and approval of the Board Engineer.
10. The revised plans shall also indicate the corrections to the drainage around the patio areas as well as illustrate the reduced height of the retaining walls consistent with the testimony at the hearings. The plans shall also indicate the protection of the tops of the retaining walls with guards or fences as may be required and the on-site water management systems for roofs and terraces in order to mitigate the site runoff onto Grand Tour. All of the foregoing shall be subject to the review and approval of the Board Engineer.
11. The applicant shall comply with numbers 4, 7 and 8 of the findings of fact set forth above.
12. The applicant is not relieved from the requirement of curb installation at the front of each lot unless the Board Engineer deems the curbs to be detrimental to the area.
13. Consistent with the other applications approved along Grand Tour, where sidewalks are not practical, the applicant shall contribute to the Municipal Sidewalk Fund as directed by the Borough Engineer.

Seconded by Mayor O’Neil and adopted on the following roll call vote:

**ROLL CALL:**

**AYES:            Mr. Kovic, Mr. Mullen, Mayor O’Neil, Mr. Schoellner, Mr. Cefalo**

**NAYES:        None**

**ABSTAIN:      None**

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**PB#2006-4 Reed, Thomas  
Block 92 Lot 8 – 3 Snug Harbor Avenue  
Approval of Resolution**



Mr. Stockton read the title of the following Resolution for approval:

Mr. Manrodt offered a motion to move on the adoption of the following Resolution:

**RESOLUTION APPROVING THE MINOR SUBDIVISION  
AND VARIANCE APPLICATION OF THOMAS J. REED, BLOCK 92,  
LOT 8**

**WHEREAS**, the applicant referred to above is the owner of the above mentioned lot, which is located in the R-2.01 Zone; and

**WHEREAS**, the applicant has applied for a two (2) lot Minor Subdivision with variances for the property described above. The applicant proposes to subdivide the above captioned lot into two new lots, one containing an existing single family residence and an accessory structure and one vacant for future use for a single family residence; and

**WHEREAS**, the variances and/or waivers required are as follows:

6. Proposed lot 8.01. The existing single family structure has a front yard setback of 10.4 feet, whereas 12.7 feet is required pursuant to the applicable Borough Ordinance based upon the average front yard setback for the contiguous 14 properties.
7. Proposed lot 8.01. The existing accessory structure has a rear yard setback of 2.1 feet, whereas 3 feet is required pursuant to the applicable Borough Ordinance; and

**WHEREAS**, all jurisdictional requirements have been met and proper notice has been given pursuant to the Municipal Land Use Act and Borough ordinances, and the Board has jurisdiction to consider this application; and

**WHEREAS**, the Board considered this application at public hearing held on July 13, 2006; and

**WHEREAS**, the Board after considering the evidence and testimony presented by the applicant and the interested citizens has made the following findings of fact and conclusions based thereon:

16. The property is located in the R-2.01 Zone.
17. The variance(s) requested are due to pre-existing conditions that are not affected by this application.

18. The new lots will be in compliance with the applicable bulk provisions of the Borough Zoning Ordinance with the exception of the variances requested above.
19. The applicant has agreed to comply with the outstanding conditions and requirements if any, set forth in the letters of the Board Engineer dated June 2, 2006 and July 13, 2006, which are incorporated herein in full; and

**WHEREAS**, the Board determined that the variance requested are de minimus and the relief requested by the applicant can be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the zone plan and zoning ordinance of the Borough of Highlands. If denied the applicant would suffer a "hardship" as defined in NJSA 40:55D-70c; and

**WHEREAS**, the Board after considering the testimony and exhibits has found the proposed subdivision plan and variances to be acceptable with conditions.

**NOW THEREFORE BE IT RESOLVED** by the Planning Board of the Borough of Highlands that the application for a two lot minor subdivision and variances is approved contingent upon the following conditions being met;

14. All testimony, evidence and representations made by the applicant and its witnesses are incorporated herein.
15. Taxes, fees and escrow accounts shall be current.
16. The applicant will adhere to the findings of fact set forth above.
17. The applicant agrees to enter into a Developers Agreement with the Borough, if required to do so by the Borough.
18. If required by law the approval of the application by the Monmouth County Planning Board and compliance with any conditions imposed by said Board.
19. The applicant agrees to perfect the subdivision by Deeds. Said Deeds must be submitted to the Board Engineer and Attorney for review and approval and must further be recorded within the time provided within the Land Use Act.
20. The applicant will comply with all of the outstanding recommendations and conditions if any, set forth in the letters of the Board Engineer dated June 2, 2006 and July 13, 2006.

Seconded by Mayor O'Neil and adopted on the following roll call vote:

**ROLL CALL:**

**Ayes:**            **Mr. Manrodt, Mr. Kovic, Mr. Cefalo**

**Nays:**           **None**

**Abstain:**       **None**

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**Communications:**

**The following discussion occurred:**

**RE: Flood Plain Review Process**

Mr. Kovic started to discuss flood plain procedures and review process.

The Board had a lengthy discussion on the flood plain review process.

**Traffic Officer at Intersection of Waterwitch and Shore Mandated to be provided by the Ferry Company.**

Mayor O'Neil asked if the board would consider removing the requirement that the Ferry Service must provide for a Police Officer to direct traffic at the intersection of Waterwitch and Shore Drive.

The Board discussed this matter and decided that a Police Officer was no longer needed due to the fact that only one ferry service is in business at this time and they believed that this requirement was implemented when there was more than one ferry in service.

Mayor O'Neil offered a motion to make a recommendation to the Mayor and Council that based on current conditions the need to have a Police Officer directing traffic at this intersection is no longer needed and that this requirement be removed, seconded by Mr. Manrodt and approved on the following roll call vote:

Mr. Serpico stated that he can prepare a resolution on this matter.

**ROLL CALL:**

**AYES:**            **Mr. Manrodt, Mr. Kovic, Mr. Mullen, Mayor O'Neil,  
                         Mr. Urbanski, Mr. Schoellner, Mr. Cefalo, Mr. Stockton**

**NAYES:**        **None**

**ABSTAIN:**      **None**

**Review of Land Use Ordinance Amendments:**

Mayor O'Neil explained that the Land Use Ordinance Amendments will have to come back to the Planning Board.

The Board directed the Board Secretary to place this item on next months agenda.

Mr. Serpico stated that it has to come back to this board with direction from the Governing Body.

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**Approval of Minutes:**

Mayor O'Neil offered a motion to approve the May 11, 2006 with a change on page 18 last paragraph at the end of the first sentence to add "and steep slope, drainage and erosion concerns". Seconded by Mr. Mullen and approved on the following roll call vote:

**ROLL CALL:**

**AYES:**            **Mr. Manrodt, Mr. Kovic, Mr. Mullen, Mayor O'Neil, Mr. Urbanski,  
                         Mr. Schoellner, Mr. Cefalo**

**NAYES:**        **None**

**ABSTAIN:**     **Mr. Stockton**

Mr. Kovic offered a motion to approve the June 8, 2006 and the July 13, 2006 minutes, seconded by Mr. Schoellner and all eligible voting members were in favor.

Mr. Manrodt offered a motion to adjourn the meeting, seconded by Mr. Schoellner and all were in favor.

The Meeting adjourned at 8:26 P.M.

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**CAROLYN CUMMINS, BOARD SECRETARY**

