

**BOROUGH OF HIGHLANDS
PLANNING BOARD
SPECIAL MEETING
MARCH 22, 2007**

Mr. Stockton called the meeting to order at 7:44 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 Special Meeting of the Borough of Highlands Planning Board and all requirements have been met. Notice has been posted on the public bulletin board and transmitted to the Courier, The Asbury Park Press and The Two River Times.

ROLL CALL:

Present: Mr. Mullen, Mr. Bahrs, Mr. Nolan, Mr. Stockton, Mr. Harrison

Late: Mr. Kovic arrived at 7:56 P.M.

Absent: Mr. Manrodt, Mayor O'Neil, Mr. Schoellner, Mr. Cefalo

Also Present: Carolyn Cummins, Board Secretary
Jack Serpico, Esq., Board Attorney
Martin Truscott, P.P. of T & M Associates

**Review of Ordinance O-07-06
Zoning Amendments**

Present: Martin Truscott, P.P. of T & M Associates

Mr. Serpico swears in Martin Truscott, P.P. of T & M Associates.

Mr. Truscott stated the following during his testimony and response to questions from the board:

1. Mr. Truscott reviewed with the board his March 20, 2007 Memorandum outlining the changes to Ordinance O-07-03 now known as O-07-06 and stated that Council is asking the Planning Board to review the changes to the ordinance and deem it consistent with the Master Plan.

His memorandum dated 3/20/07 listed the following changes which he discussed with the Planning Board:

**Section 2, Page 7
Added a definition of health and fitness clubs.**

**Section 21, Page 13
Provided parking requirements for health and fitness clubs.**

**BOROUGH OF HIGHLANDS
PLANNING BOARD
SPECIAL MEETING
MARCH 22, 2007**

Mr. Truscott stated that the amendment provides for one parking space for 200 square feet of gross floor area.

Section 29, Pages 19 and 20

Health and fitness clubs are permitted in the Highway Oriented Zone District provided the parcel has frontage on State Highway Route 36.

Section 34, Page 23

Mobile Home Park permitted in the MXD Zone within the current boundaries.

Mr. Truscott stated that the Governing Body did not feel that this was appropriate so they deleted this part at the introduction of the ordinance. Therefore Mobile Home Parks will no longer be permitted in the MXD Zone.

Section 34, Pages 24 and 25

Added a provision which states in part, "Any approval for development in the MXD Zone, which results in the retirement of the Mobile Home Park or the removal of any residents of the Mobile Home Park shall contain a condition that the applicant shall provide proof, to the satisfaction of the Board of Original Jurisdiction, that adequate private residential facilities and circumstances exist for the relocation of those mobile park residents consistent with the requirements of N.J.S.A. 46:8C-21"

Mr. Truscott stated that this concluded the changes and asked the Planning Board to find that the changes are consistent with the Borough Master Plan.

Mr. Mullen questioned the setbacks for the Highway Oriented Zone and stated that in reviewing them it does not appear as though it was taken into consideration that the sites have two front yards in that zone. He was concerned that a 50-foot front yard setback with most lots having two front yards would yield an unbuildable space.

Mr. Truscott – it may restrict it because it did not take into account the two front yards so that may be a recommendation that you would want to make.

Mr. Mullen questioned the parking requirements for athletic clubs and fitness centers and wanted to know is there truly a parking requirement that would suite both uses.

Mr. Truscott – yes, from the information that he has which he further described.

Mr. Kovic arrived to the meeting.

Mr. Bahrs stated that he would like to see two family uses added back as permitted uses in the Zoning Ordinance.

**BOROUGH OF HIGHLANDS
PLANNING BOARD
SPECIAL MEETING
MARCH 22, 2007**

Mr. Serpico advised Mr. Bahrs that that has already been reviewed and tonight's review is for the current amendments as described by Mr. Truscott.

Mr. Truscott stated that the Master Plan under the Land Use Elements on page LU29, item 28 stated "eliminate duplexes as a permitted use in the R-2.03 Zone". Duplex Structures are a two-family use either side by side or up and down. A Duplex and a two-family are the same thing.

The Board had a discussion on the definition of a duplex and a two-family and if the board made that recommendation in the Master Plan.

Mr. Harrison, Mr. Bahrs and Mr. Kovic all stated that they do not recall the board making a recommendation in the Master Plan to eliminated two-family uses.

Mr. Stockton asked if any members of the public had any questions for Mr. Truscott.

Chris Francy of 36 Fifth Street – stated that there seems to be two conflicting paragraphs in the ordinance on page 24, D-15 which talks about the MXD not being severable and on page 50 it contradicts it and says it is severable.

Mr. Serpico stated that the purpose of putting that catch all phrase at the end of any ordinance is to protect the borough in case some judge tries to strike down a portion of an ordinance ordinance. So the entire ordinance doesn't go, your saying that it can be severable. He does not know the intent for putting in this section of the ordinance.

Mr. Truscott explained that if the relocation provisions were found to be void that the whole MXD doesn't go with it.

Mr. Serpico explained that on page 24 it gives the mobile park residents more protection which he further explained.

Chris Francy stated that he does not believe that the intent of the Master Plan was to eliminate duplex uses.

Mr. Serpico explained that the board can write a letter about the duplex issue but we would have to go back and read the record to establish the intent of the comment in the Master Plan. A consensus of the board would be needed to undertake that task.

**BOROUGH OF HIGHLANDS
PLANNING BOARD
SPECIAL MEETING
MARCH 22, 2007**

Paul Mazzella of 330 Shore Drive questioned the parking standards for health clubs and expressed his opinion that he feels that they are insufficient, he also questioned the research that was done to come up with the proposed parking requirements.

Lori Dibble of Paradise Park – stated that she wanted to argue for leaving in Mobile Homes as a permitted use on the MXD Zone. She wanted to know the harm in leaving Mobile Homes as a permitted use. She also asked if there was a disregard to the Municipal Land Use Law by discriminating against Mobile Home Parks.

Mr. Truscott – there is probably no harm which he further explained. He also stated that he does not believe that there was any disregard to the Municipal Land Use Law.

Lori Dibble asked about what would be required if she wanted to replace her mobile home with a newer mobile home.

Mr. Truscott stated that she would have to go to the Board of Adjustment.

There were no further questions from the public.

Mr. Stockton asked if there were any comments from the public.

Paul Mazzella of 330 Shore Drive was sworn in and spoke against the proposed amendment for parking requirements for health and fitness clubs and spoke about a specific property that proposed a fitness club.

Mr. Serpico advised Mr. Mazzella that he could not speak about a specific application or property because it would be improper for the board to hear him give details on a specific piece of property especially if it is before the courts and has a potential to come back before this board.

Paul Mazzella stated that the town picked the lowest parking standards for health clubs and he does not feel that they are adequate.

Mr. Mullen stated that the overall parking requirements have to be appropriate and Mr. Truscott believes that they are.

Lori Dibble of Paradise Park was sworn in and stated that she appreciates the residents of the mobile park being protected but asked that mobile parks be allowed to remain a permitted use in the MXD Zone.

**BOROUGH OF HIGHLANDS
PLANNING BOARD
SPECIAL MEETING
MARCH 22, 2007**

There were no further comments from the public; therefore the public portion was closed.

Mr. Serpico stated that he had concerns with the condition in the last section pertaining to compliance with regard to relocation of housing. He has a problem with the fact that the Planning Board and Zoning Board is being put in a position that they have to make a

decision on this language as to whether or not compliance with this code has been met. The Planning board and Zoning Board do not have the expertise to make such a call and putting them in a position is a bad thing. He believes that it can be made a condition of approval which he further explained. A condition should be added that the applicant provide the resolution between the homeowners and the applicant as to what the outcome is but the board should not be the arbitrator of whether or not it took place.

Lori Dibble questioned Mr. Serpico about his comment.

Mr. Serpico explained that he agrees with the philosophy of this condition but asking the board to sit as a judge and jury on housing issues is way outside the scope of what they are used to doing.

Mr. Serpico continued to discuss this issue with the board and Mr. Truscott.

The Board discussed the comments for recommendations to ordinance O-07-06.

Mr. Bahrs again requested that a letter be sent to the Governing Body that they review the removal of two-family uses.

Mr. Serpico advised him that the minutes from the Master Plan would have to be reviewed to determine what the intent was in the Master Plan.

Mr. Nolan offered the following Resolution and moved on its adoption:

**RESOLUTION
BOROUGH OF HIGHLANDS PLANNING BOARD
FINDINGS OF REVIEW OF ORDINANCE O-07-06
ZONING ORDINANCE AMMENDMENTS**

WHEREAS, the Mayor and Council of the Borough of Highlands authorized the Planning Board to undertake a review of proposed Borough Ordinance O-07-06, which Ordinance will amend the Borough Zoning Ordinance; and

**BOROUGH OF HIGHLANDS
PLANNING BOARD
SPECIAL MEETING
MARCH 22, 2007**

WHEREAS, the Municipal Land Use Act, NJSA 40:55D-26 & 64, requires that the Planning Board prepare and transmit a report back to the Governing Body; and

WHEREAS, said statute does further require that the report of the Planning Board shall include an identification of any provision or provisions set forth in the proposed ordinance amendment which is or are inconsistent with the Borough Master Plan and contain recommendations concerning those inconsistencies and any other matters as the Board deems appropriate; and

WHEREAS, the Board conducted a review of the proposed amendment on March 22, 2007; and

WHEREAS, the Board received comments from Board members, the Board Engineer and Attorney and various members of the public.

NOW, THEREFORE BE IT RESOLVED, by the Planning Board of the Borough of Highlands that it hereby adopts the findings of the Board set forth below:

1. The Board recommends that Section 34, pertaining to applicant compliance with N.J.S.A. 48:8C-21, located at pages 24 and 25 of the proposed ordinance be clarified to the effect that any approval granted to an applicant be conditioned upon compliance with the foregoing Statute and that proof of compliance be supplied to the Board granting the approval.

The language currently used seems to be overly broad and possibly lead one to the conclusion that the municipal Board will be the entity that will decide if an applicant has complied with the relocation Statute. A Municipal Board should not be put in a position of having to conduct a compliance hearing and interpret and/or apply relocation Statute.

2. The Board recommends the proposed 50 foot front yard setbacks of the Highway Oriented Business Zone be reviewed with consideration that all lots in this zone are thru-lots and have two front yards and no rear yards. The front yard setbacks should be established to accommodate vehicular circulation and parking; and be in keeping with the present setbacks for existing structures where practical.

BE IT FURTHER RESOLVED that the Board hereby directs its Secretary to transmit said findings to the Clerk of the Borough of Highlands pursuant to the Statute first mentioned above forthwith for consideration by the Mayor and Council of the Borough of Highlands.

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

**BOROUGH OF HIGHLANDS
PLANNING BOARD
SPECIAL MEETING
MARCH 22, 2007**

ROLL CALL:

AYES: Mr. Mullen, Mr. Bahrs, Mr. Nolan, Mr. Stockton, Mr. Harrison

NAYES: None

ABSTAIN: None

At 7:55 P.M. the recording machine was accidentally unplugged and the remainder of the meeting was not electronically recorded.

The Board approved the request from Mr. Bahrs for him to take on the task of reviewing the record with regard to the Master Plan comment to eliminate the use of a duplex and to report his findings.

The Meeting adjourned at 8:00 P.M.

Carolyn Cummins, Board Secretary