

**Borough of Highlands
Planning Board
Regular Meeting
March 13, 2008**

Mr. Stockton called the meeting to order at 7:39 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. Kovic, Mr. Mullen, Mr. Bahrs, Mr. Cefalo,
Mr. Nolan, Mayor Little, Mr. Stockton, Mr. Harrison

Absent: Mr. O'Neil, Mr. Schoellner

Also Present: Carolyn Cummins, Board Secretary
Jack Serpico, Esq., Board Attorney
Joseph Venezia, P.E., Acting Board Engineer

**PB# 2008-2 Britton, Ryan
Block 16 Lot 2.01 – 39 Grand Tour
Application Review & Set P.H. Date**

Present: Ryan Britton
Martin Britton

Conflict: Mr. Kovic, Mr. Stockton, Mr. Mullen all stated that they have a conflict and stepped down for this matter.

The Board reviewed the application and supporting documents and the following was stated:

Mr. R. Britton stated that he is going to demolish the existing house and subdivide the lot and maybe in the future build a house for his self on one of the lots and sell the other lot. There will be two conforming lots.

1. Mr. Serpico stated that he will review the ordinance to determine if the applicant is required to serve public notice for this being that there are no variances being requested. If it's required he will contact the applicant but as of right now there is no notice.

Mr. Nolan offered a motion to schedule a public hearing for this application for April 10, 2008, seconded by Mr. Cefalo and approved on the following roll call vote:

**Borough of Highlands
Planning Board
Regular Meeting
March 13, 2008**

ROLL CALL:

AYES: Mr. Manrodt, Mr. Bahrs, Mr. Cefalo, Mr. Nolan, Mayor Little,
Mr. Harrison

NAYES: None

ABSTAIN: None

Mr. Kovic, Mr. Stockton and Mr. Mullen returned to the meeting table.

**PB#2007-1 Scaturro Irrevocable Trust
Block 2 Lot 1, Block 3 Lots 6 & 7 – Portland Road
Resolution Approving Application**

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 CHARLES G. SCATURRO IRREVOCBLE
TRUST & ROSARIO SCATURRO IRREVOCABLE TRUST,
BLOCK 2, LOT 1; BLOCK 3, LOTS 6 & 7**

WHEREAS, the applicants referred to above are the owners of the above mentioned lots, which are located in the R-1.03 Zone; and

WHEREAS, the applicants have applied for a two (2) lot Minor Subdivision and a variance and design waiver. The applicants propose to subdivide existing lots 6 and 7 into lots 7.01 and 7.02 and propose to construct two single family dwellings consisting of two stories each. Each lot will be conforming in nature with the exception of lot depth. The Ordinance requires 200 feet, whereas the applicant is providing 167.6 feet for lot 7.02. The applicants have also sought a de minimus exception from the R.S.I.S. standard that requires sidewalks for the lots; 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 held on January 10 and February 14, 2008; and

WHEREAS, the Board considered the testimony of James A. Kennedy, a licensed Professional Engineer and Planner in the State of New Jersey and various members of the public and the legal argument of Counsel; and

**Borough of Highlands
Planning Board
Regular Meeting
March 13, 2008**

WHEREAS, the applicant submitted into evidence a Minor Subdivision Map and Stormwater Management Report in support of the application prepared by James A. Kennedy; 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:

1. The property is located in the R-1.03 Zone.
2. The testimony of the applicant's witness and argument of Counsel verified that the variance requested is preexisting and the applicant cannot acquire any additional land in order to eradicate the variance applied for.
3. The new lots will be in compliance with the applicable bulk provisions of the Borough Zoning Ordinance with the exception of the lot depth variance for proposed lot 7.02
4. The applicant agreed to comply with the outstanding conditions if any, set forth in the T&M letter dated December 27, 2007, which is incorporated herein in full.
5. The applicant agreed to comply with additional conditions set forth hereinafter.
6. The Board agrees that the exception from the R.S.I.S. standard requiring sidewalks is de minimus in nature and will not adversely impact the area in which the lots are located.
7. The applicant established the positive and negative criteria required for the variance applied for; and

WHEREAS, the Board determined that the relief requested by the applicants 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

WHEREAS, the Board after considering the testimony and exhibits has found the proposed minor subdivision plan and variance and design waiver 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 variance and design waiver 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.
4. The applicant agrees to post performance bonds and inspections fees if required by the Borough.
5. The applicant will comply with the outstanding conditions if any, set forth in the T & M letter dated December 27, 2007.

**Borough of Highlands
Planning Board
Regular Meeting
March 13, 2008**

6. If the applicant intends to perfect the subdivision by deeds, they 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.
7. The applicant will contribute to the Borough sidewalk fund if required by the Borough Ordinances for the subject lots.
8. The applicant will submit updated plans containing the amendments agreed to by the applicant at the meetings and recommended by T & M Associates to the latter party for its review and approval.
9. The applicant agrees to install a pervious surface in the driveways as agreed to at the meetings of the Board.
10. The applicant agrees to adhere to the requirements imposed by the Borough as a condition of the vacation of a portion of the unnamed roadway and dedication of a portion of block 2, lot 1 to the Borough.
11. This approval is subject to the applicant receiving approval for the project from the Freehold Soil Conservation District and the Monmouth County Planning Board (if required by applicable law).

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

ROLL CALL:

AYES: Mr. Manrodt, Mr. Kovic, Mr. Mullen, Mr. Cefalo, Mr. Nolan,
Mr. Stockton

NAYES: None

ABSTAIN: None

**PB# 2008-1 Sandy Hook Dev., LLC
Block 101 Lots 17.02, 27, 27.01 – Willow Street
Hearing on New Business**

Present: Mark Aikins, Esq.
Jim Bollerman
Bill Eaton, Esq., Attorney for Objector – Paradise Park Homeowners
Association

Mr. Serpico stated that he has reviewed the public notices and that they are in proper form therefore the Board had jurisdiction on this matter.

The following documents were marked into evidence during the hearing:

A-1: Large Board with existing parking plan for Sandy Hook Bay Marina
dated 10/6/07.

O-1: Operation & Maintenance Agreement & Conservation Easement with DEP.

**Borough of Highlands
Planning Board
Regular Meeting
March 13, 2008**

O-2: Summer Season Parking Requirement Letter dated March 23, 2005 signed by James Bollerman addressed to Paul Ricci of T & M Associates.

B-1: 10/12/95 Planning Board Resolution.

B-2: 1998 Planning Board Resolution

Mr. Aikins stated that this is an application that is best defined as one that explains the allocation of existing space and utilization of the existing facilities at Sandy Hook Bay Marina. The property is located in the MXD-Zone. He stated that there have been historically a variety of uses, there are today a variety of uses. They will explain how the uses have evolved over the years.

Mr. Serpico – the way that he has read the prior resolutions and the Board Engineers letter some of the conditions of the prior approval have not yet been met. So he thinks that this is best characterized as seeking an amendment to a prior approval. It sounds as if this is an amended site plan application.

Mr. Aikins – some of the conditions have fundamentally changed and in addition the property was located in the WC-2 Zone and its now located in the MXD-Zone. So for example there was a question about the residential use that it there. Well, it wasn't permitted in the 1998, it's now permitted under the MXD-Zone. So our position on that residential use is that it's one that is permitted. So that is a use that we don't intend to abandon, that is a condition that we don't intend to abide by. He also stated that there is not one square foot of new development that is proposed in connection with this application, so it's really an explanation, an update which is required under the ordinance in order for the newer uses that have come in.

Mr. Eaton stated that in April of 2005 we had asked to be included on any notice for any land use application and Paradise Park Homeowners Association should have been on that list. He then reviewed the property owners list and stated that it was not on that list.

Mr. Serpico explained that the applicant has a right to rely on the list that was provided by the Borough. As far as the application is concerned this is going to proceed.

Mr. Aikins concurred that the Board has jurisdiction and that the applicant has complied with each and every notice that was on that list.

Mr. Aikins then called Mr. Bollerman up to testify.

James Bollerman was sworn in and stated the following during his testimony and response to questions from the board:

**Borough of Highlands
Planning Board
Regular Meeting
March 13, 2008**

1. In 2003 he formed a company called Sandy Hook Developers , LLC for the purpose of purchasing the Sandy Hook Bay Marina. At that time the former owner Mr. Aragon had financial difficulties and it was an expedited purchase.
2. The uses that existed on the site when he purchased it were 3 uses. The three major uses were the marina, the ferry service, restaurant.
3. The restaurant operates six days a week in the evenings and week days and a little more time in the weekends. It opens sometime around 2,3 and 4:00 in the afternoon and closes about 11:00 PM on Saturday and Sunday. On Tuesday through Friday it opens around 5 or 6:00 pm and closes approximately at 11:30pm. During the week days dinner is served and on the weekends it's lunch and dinner. Lunch is not served during the week days.
4. The marina operates on a seasonal basis from May to October approximately 6 months.
5. In some minor way there is some winter boat storage of about five or six boats, they tend to be smaller boats.
6. There is a Marine Mechanic on site and it's most busy during the months that the marina is in operation. They are there a few months before the marina opens and a after the marina closes. S& S Marine is there approximately 10 months a year. There business comes from a variety of sources, the vast majority of their work involves servicing of boats that are in other locations.
7. Yacht Broker Business – they broker transactions of buying and selling boats. It is not the scenario where there are actual boats with signs on them for sale in the yard. It's virtually all done in an office setting and often the boats are located in remote areas. The boats sold are used boats and there are three owners and at the most two are on the site at one time.
8. Sailing School – they offer courses in marine safety or they have private lessons. Most of the courses are held in the evenings. There are no more than two employees at once but in most cases it's just the instructor. The class size is something like 10-16 people. This is located on the second floor of the shop building.
9. Residential Apartment – is a two bedroom unit located above the restaurant. They want to lease out and it is permitted under the MXD-Zone. Two parking spaces would be designated for apartment.
10. Catamaran Business – is a cross ownership with the sailing school. You can get lessons on the catamaran. They take parties out on cruises and they lease a boat slip from the marina.
11. He described exhibit A-1 which is a site layout he described the uses on the site and the structures on the site. There are two structures on the site, the shop building and the restaurant. The ferry is on Dock D which is the Seastreak Ferry that operates Monday through Friday and not on weekends or holidays. Above the restaurant is the yacht brokerage and the residential apartment. The shop area is the S & S Marine and the sailing school is on the second floor of it. The catamaran is on Dock B. There is also a storage trailer on the site. He described the parking location for each use on the site.

Mr. Venezia stated that in his review letter he requested that the applicant show on the site plan the areas of the specific uses.

**Borough of Highlands
Planning Board
Regular Meeting
March 13, 2008**

Mr. Aikins – we are going to do that and Mr. Bollerman is going to give some testimony that will be a subsequent submission. We have no problem showing that in a revised plan.

Mr. Bollerman continues his testimony as follows:

12. Ferry Service – has no square footage except for a small shed to sell tickets out of and most of the parking lot is dedicated to this use.
13. Restaurant – is approximately 5600 square feet and is located on the first floor of this structure.
14. Marina – consists of 87 slips.
15. Yacht Brokerage – located on the second floor of the Restaurant is about 316 square feet.
16. Residential Apartment – he is guessing is about 1,000 square feet.
17. Sailing School – located in the shop building is 610 square feet.
18. Shop Building – is approximately 4500 or 4800 square feet. The shop and apartment do not have designated parking spaces but they are arranged in a way that you go to the locations for that use which he further explained.
19. Parking the weekday ferry operation would be the most intense.
20. Parking Requirements on a week day basis – they have designated 16 spaces (he referred to exhibit A-1) to the east of the restaurant that are designated for the marina, when the marina is operating. He then described how 16 parking spaces related to 87 marina slips during the week day use as being very few people using their boats during the week. On the weekday there are 0 spaces designated because the restaurant is not open during the week day. The Apartment, two parking spaces are allocated for it. There are two spaces allocated for the boat mechanic and zero for the boat broker. The sailing school has zero parking spaces for the weekdays because the classes are held on the weekends or evenings. The catamaran is scheduled for 4 spaces during the weekdays.

Mr. Aikins has no further questions for Mr. Bollerman but he reserves the right to call him back.

Mr. Bollerman continued his testimony as follows:

21. What makes a marina vibrant and successful is when you can have a number of ancillary uses associated with the marina.

Mr. Stockton opened up to cross examination of Mr. Bollerman.

William H. Eaton, Esq. stated that he is representing the Paradise Park Homeowners Association. He came forward and cross examined Mr. Bollerman.

Mr. Bollerman responded to cross by Mr. Eaton as follows:

1. On page two it describes the lot area as 7.3 acres.

**Borough of Highlands
Planning Board
Regular Meeting
March 13, 2008**

Mr. Eaton questioned Mr. Bollerman about the contour lines on Exhibit A-1 and Mr. Aikins objected and stated that Mr. Bollerman has not testified to any engineering or any topographical issues. Mr. Aikins also stated again that there are no site improvements being proposed, this is purely an informational application.

Mr. Eaton continued to cross examine Mr. Bollerman.

Mr. Bollerman responded as follows:

1. He can't answer if the marina basin is part of the useable lot area under the ordinance and would have to refer to his professionals.
2. The application includes 7.3 acres and to the best of his knowledge its area that is within the ownership of Sandy Hook Bay Marina, LLC.
3. This application is to show the sufficiency of parking for the intended uses of the property.

Mr. Venezia – he has reviewed the ordinance with respect to the definition of lot area and it excludes areas under water therefore the lot area would only be the upland portion and it's his opinion that a variance for lot area will be required.

Mr. Eaton – I believe because of the lot area that is useful this entire application should be for a use variance. The ordinance has rendered all the uses non-conforming uses and he thinks that this is the wrong board and he thinks that this is a use variance and should be before the Zoning Board.

Mr. Serpico asked Mr. Eaton under what criteria should this be a use variance.

Mr. Eaton would not answer Mr. Serpico's question.

Mr. Aikins – the mere fact that a lot may be undersized and if its uses are permitted under the ordinance to his knowledge does not require a use variance.

Mr. Eaton again refused to explain why he believes that this is a use variance. He said that he would send Mr. Serpico a memo on it but that he was not going to argue it tonight.

Mr. Eaton continued to cross examine Mr. Bollerman starting with Exhibit O-1 an agreement/easement for public access.

Mr. Bollerman responded as follows:

4. He explained the public access agreement with the DEP and stated that there are 4 parking spaces are designated by signage and he described the location of those spaces. He also stated that this questioning is about a law suit that the objector has filed.

**Borough of Highlands
Planning Board
Regular Meeting
March 13, 2008**

Mr. Aikins – I am not sure where we are going with this line of questioning here. He has indicated that he has complied with the DEP requirements, there is a separate law suit and it's not the subject of this application.

Mr. Stockton - I would like to keep the cross examination to the testimony that was given.

Mr. Eaton – I think that there are representations that were made in this agreement that he thinks should be brought to the attention of the board.

Mr. Stockton – as long as they pertain to the testimony.

Mr. Eaton continued to cross examine Mr. Bollerman.

Mr. Bollerman responded as follows:

5. Exhibit O-2 does depict their organizational structure and looks like it's a document from the law suit.

Mr. Aikins – can we have some foundation about this document.

Mr. Eaton continued to cross examine Mr. Bollerman.

Mr. Bollerman responded as follows:

6. He believes a law suit was filed against Navesink Capital Partners and himself in 2006.

Mr. Serpico asked where did O-2 come from.

Mr. Eaton – this came from discovery from Mr. Bollerman during the law suit.

Mr. Aikins – there are no issues concerning the ownership of applicants property and he objects.

Mr. Eaton – I will read specifically what it is in the agreement with the DEP that concerns me.

Mr. Aikins – if there are some DEP requirement that Mr. Bollermans Company agreed to abide by then like any requirement if this board approved this then it would be conditioned upon complying with that requirement, which he further explained.

Mr. Serpico – what are you doing.

Mr. Eaton – in the specific terms of the agreement with the DEP it states that the grantor plans to expand the marina at a future date and redevelop the property identified as block 101 lots 30 and 30.02 in the Borough of Highlands. There is a reported agreement with the state that there is an intent to expand.

**Borough of Highlands
Planning Board
Regular Meeting
March 13, 2008**

Mr. Stockton – those block and lots are not even the subject of this application.

Mr. Eaton – but they are lots within Mr. Bollermans control. His site plan asked for a waiver to move his side yard from the adjacent property to a seven foot side yard.

Mr. Aikins – it's an existing condition.

Mr. Serpico – what matters to this board is relevant testimony for the application that is before us for this site now.

Mr. Eaton continued to cross examine Mr. Bollerman.

Mr. Bollerman responded as follows:

7. He is familiar with the letter that he wrote on March 23, 2005 to Paul Ricci, but once again this is part of the law suit.

Mr. Aikins objected.

Mr. Eaton – the letter is four pages with a two page exhibit and it speaks about summer season parking, it was marked as exhibit O-2.

Mr. Serpico reviewed and stated that it's relevant.

Mr. Eaton continued to cross examine Mr. Bollerman.

8. The information contained in Exhibit O-2 he would have to go back to study the form for its accuracy back in 2005 he can't answer yes or no because it incorporates a lot of information.
9. O-2 Exhibit with regard to the statement under notes it states summer season parking estimates weekend day time 100% restaurant 25% ferry it would require 143 and provided 254 spaces, that is absolutely incorrect. Because the schedule that is referred to is a previously approved site plan by the previous owner of his uses for this site. He had nothing to do with the drafting of that schedule which he further explained.
10. Summer Season Parking requirements of O-2 prepared by L.G.A. Engineering firm. He would have to defer to his engineer with regard to how this schedule compares to this current proposal but he believes that it refers to a previous approval.
11. Provided Parking in the marina in exhibit O-2 states that the full build out of town houses there will be 115 spaces provided.

Mr. Serpico instructed the board that with regard to that portion to ignore because there is no application for townhouses before us.

**Borough of Highlands
Planning Board
Regular Meeting
March 13, 2008**

Mr. Eaton – what I have here is a document prepared by Bollermans Engineer that has a breakdown of parking and it compares it to townhouses in phase 3.

Mr. Serpico – its completely irrelevant to this application.

Mr. Kovic – can we go into Executive Session.

Mr. Serpico – we can only go into Executive Session for certain specific reasons and I have to look at the reasons. He then requested a recess to review the Executive Session Resolution.

The Board took a brief recess at 8:02 pm.

Mr. Stockton called the meeting back to order at 8:10 pm.

ROLL CALL :

**Present: Mr. Manrodt, Mr. Kovic, Mr. Mullen, Mr. Bahrs, Mr. Cefalo,
Mr. Nolan, Mayor Little, Mr. Stockton, Mr. Harrison**

Absent: Mr. O’Neil, Mr. Schoellner

**Also Present: Carolyn Cummins, Board Secretary
Jack Serpico, Esq. , Board Attorney
Joseph Venezia, P.E., Acting Board Attorney**

Mr. Kovic stated that he would like to withdraw his motion to enter into Executive Session and the Chairman accepted his withdrawal.

Mr. Eaton read through the section 21-9-01 a maximum of 80% impervious surface is permitted whereas 100% impervious surface coverage is existing and proposed.

Mr. Eaton continued his cross examination of Mr. Bollerman.

Mr. Bollerman responded as follows:

12. The parking lot is gravel. He would defer to his engineer as to if the gravel parking lot is 100% impervious.

Mr. Venezia – it is included as impervious.

Mr. Eaton continued to cross examine Mr. Bollerman.

Mr. Bollerman responded as follows:

**Borough of Highlands
Planning Board
Regular Meeting
March 13, 2008**

13. Parking for Water Taxi – the water taxi actually drops people off and picks people up so on that basis we did not feel that there would be a parking impact which he further explained.
14. Residential Unit is not occupied on the site and he believes that the previous owner Mr. Aragon occupied the apartment and since he left its been unoccupied.
15. He is not sure why the conservation easement is not on the plan he would have to defer to his engineer.
16. He believes that the property is located in the flood zone and a good percentage is in the height velocity zone and he would have to defer to his engineer but he believes that nothing is required because this application is just a parking lot.

Mr. Eaton has no further questions for Mr. Bollerman.

Mr. Aikins redirects Mr. Bollerman.

Mr. Bollerman stated the following during redirect:

1. The water taxi picks up people at various locations and has a specific route to Sandy Hook and based on experience people are not parking at his site and that's why he did not include this use on the study.
2. He does not anticipate obtaining any building permits for this application. He is not going to construct any improvements that would require compliance with the flood regulations.

Mr. Aikins – no further questions on redirect.

Mr. Stockton asked if there were any questions from the public for Mr. Bollerman.

Dennis Plaia of 13 Locust Street questioned if Mr. Bollerman is aware of parking permits on Shore Drive.

Mr. Bollerman – I am not aware of it.

Mr. Plaia then explained why there is permit parking and complained about the traffic violations of the commuters and also about the dust situation from the marina lot not being paved. He questioned the restaurant hours and the Tiki bar hours.

Mr. Bollerman stated that there is some dust because they have a gravel parking lot and they try to limit the best we can. As far as parking we are not proposing a huge increase of traffic which he further explained. The restaurant hours are from Tuesday through Friday generally open around 5 pm and close when management feels is appropriate. The Tiki Bar opens on the weekends a little earlier around 2:00 pm till closing.

**Borough of Highlands
Planning Board
Regular Meeting
March 13, 2008**

Mr. Plaia stated that he has a big concern with the cars not stopping at the stop sign and with the dust from the parking lot.

There were no further questions from the public for Mr. Bollerman therefore Mr. Stockton excused Mr. Bollerman.

Mr. Aikins called David Stafford up to testify.

David Stafford was sworn in by Mr. Serpico.

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

1. He is the General Manager of Seastreak and his relationship with Mr. Bollerman goes back prior to Mr. Bollerman to the liquidator. We obtained our landing license from the liquidator. That license was then taken over by Mr. Bollermans company when they took over the property and we have had the license ever since.
2. We are restricted to the number of car spaces of 220 car spaces.
3. We operate one service from this site in the morning at 7:30 am and this time of year the ferry is carrying a little over 200 passengers and on Tuesday he counted the cars and he counted 146 cars, so we are enjoying around 30% of kiss and ride/walk up traffic. In the evening they have three drop offs at 5:05 pm, 6:30 pm and 6:55 pm. but most passengers arrive on the 5:05 service.
4. There is a peak season for his business around July and in August it dips off a little bit and then they will be carrying maximum 250 on that 7:30 service in the morning. Non parking passengers average out at 30%. The peak summer maximum number of spaces needed is at the 7:30 am service which is 175 spaces.
5. The ferry service does not run out of this site on the weekends or holidays.
6. They have an agreement for 220 parking spaces but he can't remember when they used all of the 220 spaces.
7. Permit Parking – he believes that it was introduced when it was in the days of the NY Fast Ferry but we don't stack cars.
8. Announcements are made to customers about traffic violations via website and email and announcements on the boat.
9. If more than 250 come to the ferry they don't turn them away.
10. The capacity of the boat is 350 passengers.
11. 1.2 people average number of people come in a car.
12. The first return from NY they probably drop of 60 passengers and that opens up 60 parking spaces for that arrival.
13. People are walking to the ferry.

Mr. Eaton cross examines Mr. Stafford.

Mr. Stafford responds to cross examination as follows:

**Borough of Highlands
Planning Board
Regular Meeting
March 13, 2008**

1. Every once in a while he does a count on the parking lot.
2. He does have an agreement to use the parking spaces for three years from March 2008.
3. Sea Containers is selling the ferry but he does not anticipate any change in the contract with the sale of the ferry. The lease with the property would just carry over to the new ferry owners.

Mr. Eaton had no further questions for Mr. Stafford.

Mr. Stockton asked if there were any questions from the public but there were none so Mr. Stafford was excused.

Mr. Aikins called Mr. Yuro up to testify.

Robert F. Yuro, P.E., P.P. was sworn in and stated the following:

1. He is a license Professional Engineer and Planner in the State of New Jersey. He then described his professional background and the board accepted him as an expert.
2. Exhibit A-1 – he explained that it depicts the conditions of the site.
3. Prior Planning Board Resolution adopted on 2/12/98 marked Exhibit B-2. With regard to condition #1, no change, #2 will abide, #3 modification of ferry times, #4 condition would continue, #5 site lighting –(Mr. Venezia it has been complied with) satisfied, #6 with regard to the residential use the applicant testified that the only residential use being proposed is the apartment over the existing restaurant, #7 No land storage of boats on site, the applicant testified that as part of the marina they store about five or six boats during the off season.
4. Accessory Uses under the MXD- Ordinance, Section C-9. Principal use being the marina with the mechanic shop, in his opinion the storage of boats is an accessory and incidental use to the primary marina use. He has no problem with the board placing an appropriate cap to the number of boats being stored on the site. The boat storage area would be where the mechanical lift is at this point, at the north west portion of the upland portion of the site. This would not have an impact on parking.

Mr. Aikins agreed to the labeling of the boat storage area on the plan

Mr. Yuro continued his testimony as follows:

5. Condition #8, the applicant would enter into a Title 39 Agreement, if it wasn't already satisfied.
6. Review of Exhibit B-1 PB Resolution – Condition #1 is self explanatory. Condition #2 deals with a maximum of 2 ferry's with a maximum of 75 passengers it's fair to say that that condition has been supplanted by Mr. Stafford's testimony and as well as the 1998 Resolution. Condition #3 deals with Board Engineer Letter of that time.

**Borough of Highlands
Planning Board
Regular Meeting
March 13, 2008**

Mr. Venezia stated that the plans were signed off in 2001 pursuant to the 1998 Resolution so he can assume that any conditions would have been addressed at that time. As far as the parameter lighting the applicant can address how they are.

Mr. Bollerman – he doesn't have specific knowledge but he does know that there are no complaints and believes that there are timers but he would abide by that condition.

Mr. Aikins – condition #5 applicant provide details of proposed type of lighting along the bulkhead.

Mr. Venezia – once again he would say that it was the 2001 signed approved plan.

Mr. Aikins – Condition #4 deals with payment of tax sale certificate and taxes.

Mr. Bollerman – taxes are current.

Mr. Yuro continued his testimony:

7. Condition #5 while the owner of the site is no longer the operator of the site but if the board required traffic safety information to be disbursed by the current operator that would be a fair statement. Condition #6 addresses the installation of a two tier parking bumper system with wooden posts and rails according to the plan that has been implemented there are wooden posts in the parking areas to help delineate the various parking stalls. That has been complied with and there is no longer stacked parking. Condition #7 post up to \$10,000 on improvements to Willow Street.

Mr. Venezia stated that those improvements have been made for condition #7.

Mr. Bollerman – Condition #8 emergency access to lot 27.01 that lane will remain clear and he agrees to have that marked on the site plan.

Mr. Yuro continued his testimony as follows:

8. Condition #10 addresses building permits being issued but that is not relevant to this evening but perhaps the new condition might be the submission of revised site plan.
9. With regard to the zoning chart the existing and proposed density is not appropriate this evening.
10. He is going to update the parking on the plan as per some of the testimony this evening to include the spaces that weren't accounted for and the signage. Exhibit A-1 will be updated in accordance with the testimony as provided and the Zoning Chart will be updated to reflect the testimony and the parking requirement and the delineation of

**Borough of Highlands
Planning Board
Regular Meeting
March 13, 2008**

spaces, the signage of the area along Locust Street and to address the plan revisions of the Board Engineer Letter.

11. They will review the definition of lot area and amend the zoning chart accordingly.
12. The total tract area as per deed is 7.3 acres and that extends from Willow into the water area. He does not know the off land area off hand but it's probably about 3 acres.
13. There are 220 parking spaces delineation on the site plan.
14. The Handicapped parking spaces have signs and they are paved areas for handicapped parking.
15. 80% ordinance permits and we are greater so a variance is required.
16. FEMA Flood Zone is the HV Zone and it will be identified on the plan and the required elevations, DEP 2007 Required Plan Notes will also be added to the plan
17. The boat slips on the plan were surveyed and the current number is 87 slips.
18. His office prepared the parking for week day's document and it will be updated to include the testimony of updated ferry size.
19. There is a provision for the two apartment spaces but nothing is designated at this time but designating spaces for that apartment and yacht brokerage would not be a problem.
20. He will put the conservation easement on the plan.

Mr. Aikins – we will obtain a copy of the filed easement and submit it to the board.

Mr. Yuro continued his testimony as follows:

21. Speed Bumps – in his professional opinion he would stay away from installing speed bumps on Willow which further explained.

Mayor Little – will look into traffic violations with the Governing Body.

Mr. Venezia – it's an enforcement issue and stated that speed bumps cannot be used on public roadways.

Mr. Aikins – we can do a double stop if needed.

Mr. Stockton agrees that it's an enforcement issue and Mayor Little stated that she will look into this.

Mr. Yuro continued his testimony as follows:

22. Handicapped Parking Spaces – we may be one short and he will investigate and if more is required they have an area adjacent to the ticket sales that is paved and they could provide another handicapped parking stall.

Mr. Venezia – the applicant needs to verify the number and submit it.

**Borough of Highlands
Planning Board
Regular Meeting
March 13, 2008**

Mr. Yuro continued his testimony as follows:

23. Situation with a gravel parking lot is tough and we can wet it down a lot. Pores Pavement is still being investigated as to if it works. The ordinance identifies gravel areas as impervious area because after time it becomes almost like an asphalt and if we were to have pores we would have to rip up the entire parking lot.
24. He does not know the condition of the existing bulkhead.
25. Residential Density is .14 units per square acre and he feels that they are well below with the apartment.
26. He does not believe that any D-Variations is triggered for this application.
27. They will agree to submit items as requested by engineer and addressed tonight.

The board requested a review letter from the Fire Official about emergency access.

Mr. Yuro continued:

28. Lot 27 will be designated as a fire lane.

Mr. Eaton cross examined Mr. Yuro and Mr. Yuro responded as follows:

1. The schedule will be amended to show the overall lot area as well as the upland area.

Mr. Serpico – we recognize and Mr. Yuro recognizes that he can't include the entire tract, that he has to include only the usable land that is not under water as per the lot area definition.

Mr. Yuro continued to respond to cross by Mr. Eaton as follows:

2. Yes, he agrees with Mr. Serpico's statement.
3. Average set back he will double check when he amends the zoning chart.
4. He has never spoken to Mr. Rashly of L.G. Engineering about the V-Zone.

Mr. Eaton – we want to see the revised plans before approval.

The Board requested amended plans be submitted.

Mr. Venezia requested that the parking calculation be submitted to see the number of variances being requested.

Mr. Stockton stated that the resubmission must be filed at least 10-days prior to the next hearing.

Mr. Stockton asked if there were any questions from the public for Mr. Yuro.

Dennis Plaia of Locust Street questioned if the site is contaminated.

**Borough of Highlands
Planning Board
Regular Meeting
March 13, 2008**

Mr. Yuro – not that he is aware of.

Dennis Plaia – stated that he would like to see the parking lot paved.

Mr. Bollerman – the site has received a Phase 1 Environmental Report and it is not contaminated.

Mr. Stockton requested that a copy of the Phase 1 Contamination Report of the site be submitted.

Mr. Eaton requested representation that no paint scraping, etc will not be done on the site. He has seen the Phase I Report and if a representation was made then it would be acceptable.

Mr. Aikins – since it is not contested he will submit to the Board Attorney because it's not part of the record.

Mr. Stockton – that would be fine.

Connor Jennings of 27 Ralph Street stated that the condition of the site is deplorable and wanted to know if they considered filling in the major holes on site.

Mr. Bollerman spoke about maintenance of the parking lot and explained that every spring they put down new gravel.

There were no further questions from the public for Mr. Yuro therefore this public portion was closed.

The Board stated that the applicant must submit the revised plan at least 10-days prior to the hearing.

Mr. Stockton – based on the late hour this is a good stopping point for this application.

Mr. Manrodt offered a motion to carry this hearing to the April 10, 2008 meeting, seconded by Mr. Nolan. This motion also includes that some revisions and updates to the plans being submitted in time 10-days prior to the hearing and approved on the following roll call vote:

Mayor Little – we are going to have recommendation from the Police for the traffic concerns and have the fire report done.

ROLL CALL VOTE:

AYES: Mr. Manrodt, Mr. Kovic, Mr. Mullen, Mr. Bahrs, Mr. Cefalo, Mr. Nolan,
Mayor Little, Mr. Harrison, Mr. Stockton

NAYES: None

ABSTAIN: None

**Borough of Highlands
Planning Board
Regular Meeting
March 13, 2008**

Mr. Serpico advised the public that this hearing has been carried to the April 10, 2008 meeting and that no further public notice will be given.

Mr. Eaton stated that he is not sure at this time if he will submit a memo to the Board Attorney about his claims of needing a use variance. He will look at the final plan and submit a memo. He stated that he will provide a copy of easement for the board.

Steep Slope Ordinance Review

Mr. Manrodt offered a motion to table this matter indefinitely, seconded by Mr. Nolan and all were in favor.

Approval of Minutes:

Mr. Manrodt offered a motion to approve the January 10, 2008 and the February 14, 2008 Planning Board Minutes, seconded by Mr. Mullen subject to a typo correction on page 12 of the February 14 minutes on item #7 the intent is to not enter into” and all eligible members were in favor.

Communications:

Memo from Zoning Officer RE: Flood Zone Review

Mr. Stockton – we received a memo from the Zoning Officer indicating that it’s his intent to get some input from the Borough Engineer regarding flood approval.

The Board wishes to update the application check list to include language about flood approval requirement.

Annual Zoning Report

There were no comments

Mr. Nolan offered a motion to adjourn the meeting, seconded by Mr. Mullen and all were in favor.-

The Meeting adjourned at 9:50 P.M.

**Borough of Highlands
Planning Board
Regular Meeting
March 13, 2008**

CAROLYN CUMMINS, BOARD SECRETARY