

2/7/19

**RESOLUTION APPROVING USE AND BULK VARIANCES
FOR SCANLON**

WHEREAS, the applicant, EILEEN SCANLON, is the owner of 22-24 Fifth Street, Highlands, New Jersey (Block 56, Lot 15), and filed an application for use and bulk variance relief, seeking to continue to use the property as a residence and rental units, by rebuilding and relocating the main house to comply with new flood elevations and improve the bulk setback deficiencies; and

WHEREAS, all jurisdictional requirements have been met, and proper notice has been given pursuant to the Municipal Land Use Law and Borough Ordinances, and the Board has jurisdiction to hear this application; and

WHEREAS, the Board considered the application at a public hearing on January 3, 2019; and

WHEREAS, the Board heard the testimony of EILEEN SCANLON; and

WHEREAS, no one appeared in opposition, or to ask questions about the application; and

WHEREAS, the applicant submitted the following documents in evidence:

- A-1 Zoning Permit application and denial by Edward Hermann dated 10/4/18
- A-2 Planning Board Flood Plain Relief Application
- A-3 Architectural plans by Anthony Condouris dated 10/16/18 (3 pages)
- A-4 Variance application (2 pages)
- A-5 Flood Plain Relief Application (2 pages)

AND, WHEREAS, the following exhibits were marked into

evidence as Board exhibits:

- B-1 Board engineer completeness letter by Robert Yuro dated 10/16/18 (4 pages)
- B-2 Board engineer review letter by Robert Yuro dated 11/20/18 (4 pages)

AND, WHEREAS, the Board, after considering the evidence and testimony, has made the following factual findings and conclusions:

1. The applicant is the owner of property located in the WT-C/T (Waterfront Transitional Commercial Townhouse) Zone.

2. The site currently contains three dwelling structures, including the main home, with a total of five residential units.

3. The WT-C/T zone permits single family dwellings, two family dwellings, and townhouses at the same density as the R-2.03 zone. Multifamily dwelling units are not a permitted principal use, thereby requiring a use for an expansion of a non-conforming use.

4. The main house needs to be raised and, in doing so, meet current flood regulations.

5. The applicant purchased this property in 2010. It was non-conforming long before that.

6. The applicant seeks to move the existing home closer to the river, thereby creating a larger setback from 5th Street and, at the same time, improving the non-conformities of the side yard setbacks.

7. The existing basement will be filled in. It will then be used for parking, by extending the

current concrete driveway, which currently ends at the main home. The additional parking, other than the cement slab under the main house, will be crushed stone.

8. The new house will be built on piers.

9. The current home is approximately 237 feet from the river. The applicant proposes the new home to be approximately 191 feet from the river.

10. The applicant has no intention of adding another (4th) structure to the property. The existing three residential structures will remain.

11. The Board Engineer calculated that the applicant's proposal requires thirteen (13) parking spaces on site. The Engineer further testified that, based on his calculation, at least ten (10) parking spaces will fit on the newly constructed site, possibly up to eleven (11). This includes the three spaces to be constructed under the newly constructed home. This will leave the property short by two (2) to three (3) parking spaces.

12. There is currently only space for six parking spaces on site. As a result, the increase from six (6) to ten (10) or eleven (11) spaces is a significant improvement to the property, and will take vehicles off the neighborhood streets. In doing so, it will lessen the burden on neighbors.

13. The applicant testified that there will be no changes to the water runoff, storm water, or sewer. Also, the sewer usage, since the number of units is not changing, will not change.

14. The current stairs to the western building are now close to the stairs to the main house. That

situation will be improved by moving the main house back into the lot, thereby alleviating congestion on site.

15. The owner seeks bulk variances for the following preexisting conditions:

A. Lot frontage of 50 feet where 43 feet currently exists.

B. Side yard setback of 1.7 feet for the west building when 6/8 feet are required.

C. Side yard setback for the east building of 2.6 feet where 6/8 feet are required.

16. The preexisting non-conformity of the side yard setback condition for the north/main building of 1.9/19.1 feet will be removed, since the proposed side yard setbacks for the main building will now be 6/15 feet, making this an improvement to the property.

17. Since the proposed use is identical to the existing use, the neighborhood character will be preserved.

18. The Board finds that the applicant met the special reasons required by N.J.S.A. 40:55D-70(d) by meeting the special reasons set forth in N.J.S.A. 40:55D-2(a): subsection (b) secure safety from fire, flood, panic and other natural and manmade disasters by making the property much safer for neighbors and tenants; and subsection (c) to provide adequate light, air and open space.

19. The application meets the Medici criteria, in that the property is particularly suitable for the

intended use. That is the case primarily because that has historically been the use of the property. The residential uses are compatible with the neighborhood.

20. With respect to the negative criteria required to be proven under N.J.S.A. 40:50D-70(d) this applicant is keeping the current number of dwelling of units the same on the property, while reducing the congestion on the property and providing for significantly more parking.

21. The proposed use will not be a substantial impairment to the intent and purpose of the zone plan and zoning ordinance.

WHEREAS, the application was heard by the Board at its meeting on January 3, 2019, and this resolution shall memorialize the Board's action taken at that meeting;

NOW, THEREFORE, BE IT RESOLVED by the Land Use Board of the Borough of Highlands that the application of EILEEN SCANLON for a use variance for the expansion of the same pre-existing use is hereby approved. Variances are also granted for the preexisting conditions of minimum lot frontage and minimum side yard setback on for the west building an east building (i.e., not the north/main building); and for parking for no less than ten (10) cars, where thirteen (13) spaces are required.

AND BE IT FURTHER RESOLVED that this approval is conditioned upon the following:

A. The applicant will provide for parking for no less than ten (10) vehicles on site.

B. Compliance with any DEP regulations. The applicant advised the Board that her architect told her there were no regulations she needed to address. That, however, will need to be confirmed.

C. Any damage to the existing pavement incurred due to the proposed project shall be repaired or replaced to the satisfaction of the Borough.

D. Review of the compliance with the flood plain is deferred to the Flood Plain Officer.

E. The applicant shall obtain outside agency approvals, as required, from the Construction Official, Fire Official, and any other department and agencies having jurisdiction.

F. Clearance from the Monmouth County Planning Board.

G. Applicant's plans and construction shall meet all state and borough codes.

OFFERED BY: Mr. Gallagher

SECONDED BY: Mr. Colby

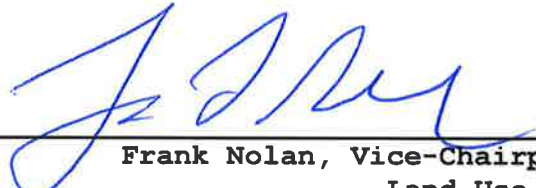
ROLL CALL:

AYES: Chief Burton, Mr. Colby, Mr. Gallagher, Mr. Nolan, Mr. Montecalvo, Mr. Kutosh

NAYS: Mr. Lee

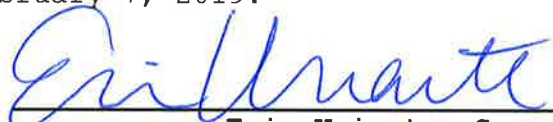
ABSTAIN: None

ABSENT: Mayor O'Neil, Ms. Mazzolla, Mr. Francy, Mr. Stockton, Mr. Knox



Frank Nolan, Vice-Chairperson
Land Use Board
Borough of Highlands

I certify that the above is a true and exact copy of the Resolution passed by the Planning Board of the Borough of Atlantic Highlands at its meeting held on February 7, 2019.



Erin Uriarte, Secretary
Land Use Board
Borough of Highlands