

**Borough of Highlands**  
**LAND USE BOARD**  
**Regular Meeting**  
**September 3, 2020**

***Meeting Location: Robert D. Wilson Memorial Community Center, 22 Snug Harbor Ave, Highlands NJ (Held Via Video Conference)***

Chairman Stockton called the meeting to order at 7:36pm.

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

**Chairman Stockton read the following statement:** As per requirement, notice is hereby given that this is an Abbreviated Meeting of the Borough of Highlands Land Use Board and all 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. Formal Action will be taken.

**ROLL CALL:**

Present: Mayor Broullon, Mr. Kutosh, Mr. Lee, Councilmember Mazzola, Ms. Tierney, Mr. Montecalvo, Ms. Nash, Ms. Walsh, Ms. Pendleton, Mr. Knox, Chairman Stockton

Absent: Chief Burton, Ms. LaRussa

Also Present: Board Attorney Mr. Baxter

Board Engineer Edward Hermann

Attorney Baxter swore in Annmarie Tierney and Lorine Pendleton.

**OPEN FOR PUBLIC COMMENTS:** None

**MEMORIALIZATION OF RESOLUTIONS:**

1. LUB2020-03, 13 Marine Place, Block 85 Lot 5.01, Jesse Beim - Application for Bulk Variance

**RESOLUTION APPROVING BULK VARIANCES**

**FOR BEIM AT 13 MARINE PLACE**

WHEREAS, the applicant, JESSE BEIM, is the owner of a home at 13 Marine Place, Highlands, New Jersey (Block 85, Lot 5.01), and filed an application to demolish the existing structure and construct a new 2-story elevated single family home with two front decks and a roof-top deck; 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 July 2, 2020; and

WHEREAS, the Board heard testimony from the applicant, JESSE BEIM and his architect, ANTHONY CONDOURIS; and

WHEREAS, the applicant's neighbor, PETER MULLEN, appeared in support of the application; and

- WHEREAS, the applicant submitted the following documents in evidence:
- A-1 Denial of zoning permit by Marianne Dunn, Zoning Officer dated 12/16/19
  - A-2 Variance application dated 2/19/20 (3 pages)
  - A-3 Architectural Plans by Anthony Condouris dated 10/21/19 (3 pages)
- AND, WHEREAS, the following exhibits were also marked into evidence:
- B-1 Board engineer completeness letter by Edward Herrman dated 5/7/20 (3 pages)
  - B-2 Board engineer's fee and escrow calculation letter of 5/7/20
  - B-3 Board engineer review letter by Edward Herrman dated 5/21/20  
(4 pages)

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

1. The applicant is the owner of a pre-existing non-conforming lot, located in the R-2.01 Zone.
2. The applicant proposes to demolish the existing home and construct a new two-story elevated single family home, with two front decks and a roof-top deck.
3. The existing home requires substantial repairs, and the applicant has determined that the cost to do these repairs, versus the cost of rebuilding, are not that far apart that it would justify repairing an old home.
4. The existing home is over seventy (70) years old.
5. There is a large tree in the rear yard which the applicant does not want to remove, and the Board agrees that it would be best to retain that tree. The plan is to build the rear deck around the tree. Reference here is not to the smaller tree in the right rear corner of the property.
6. Though there is currently parking in the garage, the new home will have a bigger and wider garage, so that both cars can park in the garage and not overhang onto the sidewalk.
7. The applicant did not know where he would place the air conditioning unit though, wherever it is placed, it will not violate any ordinance setback requirements. As to the electric panel, it will be placed on the rear deck and it, too, will not violate any ordinance setback requirements.
8. The applicant originally planned a three-story structure with substantially more square footage. Those plans were changed prior to his submission of this application to the Board.
9. The proposed new home will be similar to others in the neighborhood though not as high as are many of the homes that are being constructed or reconstructed in the neighborhood.

10. The applicant requests a variance for lot frontage of 40 feet, where 50 feet are required, a pre-existing condition.

11. The applicant also seeks variances for the following: front yard setback of 16.4 feet for the dwelling, and 12.3 feet for the deck, both on Marine Place, where 20 feet are required. Both dimensions are pre-existing. And for a front yard setback of 7 feet on Huddy Avenue where 20 feet are required. The pre-existing condition was 6.8 feet.

12. No parking variance is required, since the off-street parking requirements of the ordinance have been met.

13. The proposed new structure is being placed in basically the same location and footprint as the existing home, yet a little longer/deeper.

14. The applicant has complied with the requirement of promoting a public purpose, to wit providing light, air and open space pursuant to N.J.S.A. 40:55D-2c, as testified to by the applicant's architect. The applicant meets the requirements of N.J.S.A. 40:55D-70c(2) in that the applicant has minimized the deviations from the zoning ordinance, and the relief requested will promote a public purpose and thereby provide improved community planning that benefits the public, and the benefits of the variances substantially outweigh any detriment.

15. The granting of this variance is done without substantial detriment to the public good, and will not substantially impair the intent and purpose of the zone plan and zoning ordinance. There will be no adverse impact on surrounding properties, and there will be no damage to the character of the neighborhood, nor any substantial detriment to the public good. In fact, the proposed new structure will fit in well with the neighborhood and be in conformance with most of the homes in the neighborhood, albeit not as large.

WHEREAS, the application was heard by the Board at its meeting on July 2, 2020, and this resolution shall memorialize the Board's action taken at that meeting;

NOW, THEREFORE, BE IT RESOLVED by the Highlands Land Use Board of the Borough of Highlands that the application of JESSE BEIM to construct a single family home as shown on the applicant's application and exhibits, be and the same is hereby approved; and a variance is hereby granted for the pre-existing condition set forth in paragraph 10 above, and variances are hereby granted for the additional conditions set forth in paragraph 11 above;

AND BE IT FURTHER RESOLVED that this approval is subject to the following conditions:

A. The applicant shall replace any front sidewalks (coverages on two streets, as this is a corner lot) that are in poor condition.

B. The applicant shall insure that any roof leaders do not impact adjacent properties.

C. The electric panel will be placed on the rear deck and not violate any setback requirements.

D. The air conditioning unit will be placed in such a way as to not violate any ordinance setback requirements.

E. The large tree in the back yard shall not be removed as long as it is not dead, dying, or creates a hazardous condition to either the applicant's property or any neighboring property.

F. The applicant shall obtain outside agency approvals, as required, from the following:

(1) Construction Official

(2) Floodplain approval;

(3) NJDEP;

(4) All other departments and agencies having jurisdiction.

Offered by: Mr. Knox

Seconded by: Mr. Kutosh

Ayes: Mayor Broullon, Mr. Kutosh, Mr. Lee, Councilmember Mazzola, Ms. Tierney, Mr. Montecalvo, Ms. Nash, Ms. Walsh, Mr. Knox

Nays: None

Abstain: Chairman Stockton

Absent: Chief Burton, Ms. LaRussa

**HEARINGS ON OLD BUSINESS:** None

**HEARINGS ON NEW BUSINESS:**

1. LUB2020-01, 273 & 295 Shore Drive, Block 120 Lot 10.04 & 10.05, Careri – Minor Subdivision
2. LUB2020-04, 220 Navesink Avenue, Block 120 Lot 1&2, Gundlach-Lot Line Adjustment
3. LUB2020-05, 193-195 Bay Avenue, Block 59 Lot 16.01, Sigman-Minor Subdivision

Attorney Baxter recommended that the application for 193-195 Bay Avenue-Sigman be carried to the next meeting due to publishing issues.

Motion to accept jurisdiction and carry application to October 1<sup>st</sup>, 2020.

Offered by: Mr. Kutosh

Seconded by: Ms. Tierney

Ayes: Mayor Broullon, Mr. Kutosh, Mr. Lee, Councilmember Mazzola, Ms. Tierney, Mr. Montecalvo, Ms. Nash, Ms. Walsh, Mr. Knox

Nays: None

Abstain: None

Absent: Chief Burton, Ms. LaRussa

Chairman Stockton began next application on agenda 273-275 Shore Drive, which was to be heard last month but due to storm and power outages was not able to be heard.

Attorney Baxter listed exhibits and swore in Ms. Jill Careri, 273 Shore Drive, Highlands, NJ 07732. She appeared without an attorney.

Chairman Stockton asked Ms. Careri for an overview. Ms. Careri shared her screen to show her PowerPoint presentation. She explained that originally the plan was for Mr. Marker to sell her a piece of his property but that bank would not finance it that way so she had to change the plans to show a proposed buildable lot. If it was approved, it would not need additional variances.

Mr. Herman explained the lines for the current and proposed subdivision. Ms. Careri provided a deed from 1986 but it was deemed not relevant to this application.

She stated her hardship is that she is not able to use the back of the property due to the steep slope and is forced to use Shore Drive as the front of the property. Chairman Stockton and Attorney Baxter both stated that does not fall under a hardship criteria.

Ms. Careri stated it is open space for her kids to play and she grows vegetables to give back to community.

Chairman Stockton stated this proposal is out of character and that it didn't actually fit within land use consideration. Ms. Careri stated that this proposal was the only way she could get consideration for financing and mortgage to purchase lot from Mr. Al Marker. Chairman Stockton stated financing does not matter in the case of Land Use Board. What she is proposing is not what she is planning on using the property for, but rather to show that the proposed lot is buildable to get financing. Attorney Baxter reiterated the fact that the Board cannot consider financing. He also stated that the proposed lot would require variances, such as an easement for parking. There will be no access allowed from South Linden, only from Shore Drive. Zoning stands with lot.

Ms. Careri stated she would do a shared driveway easement if necessary or use the other curb cut existing on this lot. Mr. Herman stated she would not be able to have two on a lot this size.

Another negative criteria Ms. Careri stated is other lots are the same size but have no green just pavement.

Mr. Herman asked if there were any prior resolutions regarding subdividing. Ms. Careri stated she was not able to locate any.

Attorney Baxter swore in Mr. Alfred Marker, 295 Shore Drive, Highlands, NJ 07732. Attorney Baxter asked Mr. Marker had he lived there before condos being built. Mr. Marker affirmed that he did, his father built the home. Attorney Baxter questioned if there were any resolutions, documents that he may have, Mr. Marker stated he was too young at the time, there were resolutions, but he does not have them. Mr. Marker gave the back story on the property and homes being built and the condos.

Chairman Stockton asked why not just add the land to Ms. Careri's property. Ms. Careri stated financially she could not unless she could demonstrate to the banks that the proposed subdivided lot is buildable.

Chairman Stockton opened the meeting for any questions from the board of the applicant.

Mr. Knox asked what the square feet of the lot was. Ms. Careri replied 6,866.

It is within setback for front. Rear yard is the issue.

Councilmember Mazzola asked what the setbacks were. Both Careri and Marker answered.

Seeing no other questions from the board, Chairman Stockton opened the meeting up for public comments or questions.

Mr. Marker asked if she would have to start a whole new application. Chairman Stockton stated no that it would be a continuation of this one.

Mr. Knox stated it is important to look at what is in the town not just her area. Mayor Broullon agreed.

Councilmember Mazzola asked if there is a picture of the front of the home, showing both the right and left side of the property as within that zone there is no conformity and all properties are different.

Mr. Chris Francy, Highlands NJ 07732 commented that Ms. Careri is not planning on building a home on the lot, she just wants to buy the land. He stated he is in support of the application.

Chairman Stockton closed the public portion of the meeting.

Motion to approve:

Offered by: Mayor Broullon

Seconded by: Councilmember Mazzola

Roll Call:

Ayes: Mayor Broullon, Mr. Kutosh, Councilmember Mazzola, Ms. Tierney, Mr. Montecalvo, Ms. Walsh, Mr. Knox

Nays: Mr. Lee, Chairman Stockton

Abstain: None

Absent: Chief Burton, Ms. LaRussa

Next application on agenda is 220 Navesink Avenue-Gundlach.

Chairman Stockton recused himself due to a conflict. Vice Chairman Knox stepped in.

Attorney Baxter read list of exhibits.

Attorney Matthew Kalwinsky for Mr. Gundlach. Minor subdivision, lot line adjustment development Block 120 Lot 1 & 2 220 Navesink Avenue, he gave an overview of the application, applicant currently owns both lots.

Attorney Baxter swore in Richard Stockton 942 Route 36 Leonardo, NJ 07737. Appearing as a licensed professional surveyor and licensed professional planner.

Vice Chairman Knox stated board was satisfied with his credentials and he may proceed.

Attorney Kalwinsky asked Mr. Stockton to explain his plan.

Mr. Stockton explained each lot's present condition. He stated the only thing that will change is the area of each lot nothing else will change. Attorney Kakwinsky asked that Mr. Stockton give

positive and negative criteria. Positive criteria intensifying use of lot. Negative criteria there would be no detriment there is no development just a lot line move.

Attorney Kalwinsky discussed Mr. Herman's letter B-2. Mr. Stockton stated the only thing in the letter that needed to be address would be the landscaping. He noted there are trees already on the property that would not be removed.

Attorney Baxter asked if there would be sufficient parking. Stockton stated there would be sufficient parking.

Vice Charmin Knox asked if there were any questions from the board.

Mr. Herman stated he does not believe new landscaping is needed. This item is addressed in his letter due to an ordinance.

Mr. Lee also agreed that there is no need to dig up and replant.

Mr. Herman asked that the meets and bounds descriptions be sent to his office and the attorney as well for review. Also, that the tax assessor be consulted regarding the lot numbering. Attorney Kalwinsky stated that they would comply.

Vice Chairman Knox asked if there are any questions from the public. Seeing none he closed the public portion.

Motion to approve:

Offered by: Mr. Kutsoh

Seconded by: Mr. Lee

Roll Call:

Ayes: Mr. Kutosh, Mr. Lee, Ms. Tierney, Mr. Montecalvo, Ms. Nash, Ms. Walsh, Ms. Pendleton, Mr. Knox

Nays: None

Abstain: Mayor Broullon, Councilmember Mazzola, Chairman Stockton

Absent: Chief Burton, Ms. LaRussa

**ACTION ON OTHER BUSINESS:**

Chairman Stockton resumed the meeting with other business. Discussion of October meeting being in person took place. Attorney Baxter stated meeting would not be able to be hybrid either via Zoom or in person not both. Chairman Stockton stated someone would have to man the door. 30 people is the max for the building currently. Councilmember Mazzola stated hybrid is working very well at council meetings.

Ms. Tierney discussed the draft invasive plant ordinance. She explained all the different plants that would not be allowed in the Borough and would be ticketed by code enforcer. Once draft is updated it may be submitted for approval.

Status meeting to be held on or around September 14<sup>th</sup> 2020 (Chairman, Vice Chairman, Attorney, Engineer and Secretary) to discuss pending cases and updated status as to whether or not they can be heard.

**APPROVAL OF MINUTES:**

1. July 2, 2020

Chairman Stockton asked for a motion to approve minutes.

Offered by: Mr. Kutosh

Seconded by: Mr. Knox

Ayes: Mayor Broullon, Mr. Kutosh, Mr. Lee, Councilmember Mazzola, Ms. Tierney, Mr. Montecalvo, Ms. Nash, Ms. Walsh, Chairman Stockton

Nays: None

Abstain: Mr. Pendleton

Absent: Chief Burton, Ms. LaRussa

**COMMUNICATION AND VOUCHERS:**

1. Approval of Invoices from T&M Associates & Mr. Baxter, Esq.

Chairman Stockton signed vouchers.

Chairman Stockton asked for a motion to adjourn.

**ADJOURNMENT**

Offered by: Ms. Tierney

Seconded by: Mr. Knox

All in favor

None Opposed

Adjourned at 10:37pm

I, Michelle Hutchinson, certify that this is a true and correct record of the actions of the Borough of Highlands Land Use Board on October 1, 2020



Michelle Hutchinson, Land Use Board Secretary