



BOROUGH OF HIGHLANDS
COUNTY OF MONMOUTH

LAND USE BOARD RESOLUTION 2025-25
MEMORIALIZATION OF AMENDED PRELIMINARY AND FINAL SITE PLAN APPROVAL
WITH DESIGN WAIVERS

IN THE MATTER OF 60 BAY AVE HIGHLANDS LLC
APPLICATION NO. LUB 25-05

Approved: August 14, 2025
Memorialized: September 11, 2025

WHEREAS, an application for amended preliminary and final site plan approval with design waiver relief has been made to the Borough of Highlands Land Use Board (hereinafter referred to as the "Board") by 60 Bay Ave Highlands LLC (hereinafter referred to as the "Applicant") on lands known and designated as Block 42, Lot 1, as depicted on the Tax Map of the Borough of Highlands (hereinafter "Borough"), and more commonly known as 60 Bay Avenue in the CBD (Central Business) Zone and CBD Redevelopment Overlay 2 – Gateway Parcels (C-RO-2) Zone; and

WHEREAS, public hearings were held before the Board on July 10, 2025 and August 14, 2025, with regard to this application; and

WHEREAS, the Board has heard testimony and comments from the Applicant, witnesses and consultants, and with the public having had an opportunity to be heard; and

WHEREAS, a complete application has been filed, the fees as required by Borough Ordinance have been paid, and it otherwise appears that the jurisdiction and powers of the Board have been properly invoked and exercised.

NOW, THEREFORE, does the Highlands Land Use Board make the following findings of fact and conclusions of law with regard to this application:

1. The subject Property contains 6,625 square feet (0.147 acres) with frontage along Bay Avenue (County Route 8), South Street, and Shrewsbury Avenue within the Central Business District (CBD) Zone and the CBD Redevelopment Overlay 2 Zone – Gateway Parcels (C-RO-2) Zone. The adjacent property, Lot 15, is located within the same zone, and adjacent residential Lot 2 is located within the R-2.02 District.

2. The subject Property is located within the AE Flood Hazard zone, partially in the Coastal A zone, and in the Limit of the Moderate Wave Action (LiMWa) delineation area.

3. The subject Property is improved with a three-story multi-family dwelling with four (4) residential units.

4. The Applicant received approval under Land Use Board Resolution 2024-16 Memorialization of Preliminary and Final Site Plan Approval, approved August 8, 2024, and memorialized September 12, 2024.

5. Pursuant to LUB Resolution No. 2024-16, the Applicant was approved to move and elevate the existing multi-family dwelling, renovate, construct two extensions, decks, provide ground floor storage and garage parking and associated site improvements. The proposed multi-family residential building was approved to consist of 5 units having 4-two-bedroom units and 1-three-bedroom unit, one-1 car garage, and one-2 car garage. The approved application sought driveway access to the subject Property from both Shrewsbury Avenue and Bay Avenue.

6. The Applicant filed an application and sought approval from the Monmouth County Planning Board (MCPB), which has jurisdiction over Bay Avenue (Monmouth County Route No. 8). MCPB approval was required per Resolution No. 2024-16.

7. The MCPB did not approve of the Applicant's proposed means of ingress and egress along Bay Avenue and denied its waiver requests for the same.

8. The Applicant is now proposing amending the application and its prior approval to eliminate the proposed and existing driveway access on Bay Avenue. To that end, the former garages have been replaced with storage units with access doors in lieu of garage doors. However, the Applicant remains subject to approval for a proposed 466 sf right-of-way dedication or easement along Bay Avenue from MCPB.

9. During the course of the hearings, the Applicant made additional and revised site improvements and agreed to and did redesign the garages and driveways along Shrewsbury Avenue with a full-width driveway with depressed curb serving three (3) units and providing two (2) carports, in lieu of enclosed garages, thereby improving site visibility and safety.

10. Based on the application as presented, two (2) design waivers are now required for the subject Property from the requirements of § 21-65.5.C.1 for the maximum interior driveway width with twenty-two (22) feet permitted and 34.71 feet proposed and maximum driveway width at the curb with eighteen (18) feet permitted and 36.9 feet proposed.

11. The Applicant was represented by Counsel, Donna Jennings, Esq. and Luke Policastro, Esq. of Wilentz (hereinafter referred to as "Counsel for the Applicant").

12. Counsel for the Applicant stated that the Applicant was seeking amended preliminary and final site plan approval with design waiver relief to elevate the existing four (4) unit residential building and add an additional residential unit, for a total of five (5) residential units.

13. Counsel for the Applicant stated that the proposed use, multi-family residential, was permitted in the Zone and no variances were required with this application. Instead, the proposal requires two design waivers with respect to the maximum interior driveway width and the maximum driveway width at the curb.

14. The Applicant's Engineer, Douglas Clelland, P.E., was sworn in and his credentials were accepted by the Board. Mr. Clelland provided expert testimony in the field of engineering and introduced exhibits A-1 through A-9 with respect to the application.

15. Mr. Clelland testified that the subject Property is surrounded by a mix of commercial, multi-family and single-family residences (many of which had been raised above the flood zone).

16. Mr. Clelland further testified that pursuant to the plans, which had previously been approved by the Board in Resolution No. 2024-16, the Applicant had three separate driveways proposed along Bay Avenue but that, after numerous conversations with the County, it was determined that vehicular access to/from Bay Avenue was not feasible for this proposal.

17. In response to the County's concerns, Mr. Clelland testified that the Applicant has amended its proposal so that the driveway for the southernmost garage has been flipped to the Shrewsbury Avenue side and the northern most garages have been converted into strictly storage area so that all vehicular access from Bay Avenue is removed and, thus all means of ingress and egress to the Property occurs along Shrewsbury Avenue.

18. Mr. Clelland provided additional testimony that the County has requested a right-of-way dedication, which is proposed to occur by way of an easement. The Applicant's amended proposal has been conditionally approved by the County's Development Review Committee.

19. Mr. Clelland continued providing testimony that the County requested that all structural components of the building remain outside of the dedication area, so the building was shifted approximately eight (8) inches towards Shrewsbury Avenue.

20. Mr. Clelland then testified that the application is compliant with respect to the off-street parking requirements, with ten (10) spaces being required and the Applicant satisfying the requirement through a combination of five (5) off-street parking spaces and as permitted by the Redevelopment Plan, taking credit for five (5) on-street parking spaces.

21. Mr. Clelland testified that the original plan proposed seven (7) off-street parking spaces but that two (2) spaces were lost because of the elimination of the garages fronting Bay Avenue. Regardless, the application was still compliant with respect to off-street parking.

22. Mr. Clelland added testimony that, based on his observations, during the busy summer season, there were more than five (5) on-street spaces available within 200 feet of subject Property, thus, indicating ample on-street parking.

23. Mr. Clelland continued testifying that, with respect to stormwater management, the application proposed an improvement to the existing stormwater conditions.

24. Mr. Clelland discussed further changes with the proposal and testified that refuse and recycling has been located into the lower enclosure accessed by a door off of Shrewsbury Avenue and that pickup would continue as previously approved.

25. Mr. Clelland testified that the Applicant would comply with the Borough's lighting ordinance and that all proposed lighting would be fully shielded and, thus, the Applicant was not seeking any relief with respect to the same.

26. Mr. Clelland provided testimony with respect to the means of ingress/egress from the site along Shrewsbury Avenue.

27. The Board expressed concern for site visibility, functionality, and safety when backing out of the Property onto Shrewsbury Avenue.

28. In response to questions from the Board Engineer, Mr. Clelland agreed to revise the Plans to demonstrate that ingress and egress could occur without an incursion into oncoming traffic. The Plans were revised accordingly.

29. In response to further questions from the Board, Mr. Clelland agreed that the Applicant would need to “back out” of all of the off-street parking spaces proposed.

30. In response to the Board’s concern regarding ingress/egress onto Shrewsbury Avenue, the Applicant redesigned the garages and driveways along Shrewsbury Avenue with a full-width driveway with depressed curb serving three (3) units and providing two (2) carports, in lieu of enclosed garages. The wider access improved functionality and safety.

31. Mr. Clelland provided further testimony that the Applicant “opened up” a large portion of the southeast corner of the building to improve driver visibility, both for the cars exiting the Property and the drivers that live along Shrewsbury Avenue and South Street.

32. Mr. Clelland continued testifying that with the changes to the Plan, a driver backing out onto Shrewsbury Avenue would have a longer line of sight and would be able to see traffic encroaching both directions, while the drivers on the road would better be able to see the vehicle backing out. He testified that it was overall a safer layout.

33. The Applicant further agreed, as a condition of approval, to not construct and/or plant any object greater than thirty (30) inches in height on the side of the Property fronting

Shrewsbury Avenue affected by the carports. The Applicant further agreed to record this Resolution of Approval.

34. The Board Engineer inquired whether the air conditioning units, which were proposed five (5) feet from the shared lot line with Lot 2 could be relocated to a more suitable location. In response, Mr. Clelland testified that the units could be shifted three (3) feet further away from the property line, for a total setback of eight (8) feet.

35. The Board requested that, as a condition of approval, the air conditioning units be relocated a total of eight (8) feet from the shared property line with Lot 15 and the Applicant agreed to do so.

36. The Applicant, David Cahill, was sworn in and testified with respect to the application and his intention to have his children reside at the Property in some of the residential units.

37. There were no members of the public expressing an interest in this application.

WHEREAS, the Highlands Land Use Board, having reviewed the proposed application and having considered the impact of the proposed application on the Borough and its residents to determine whether it is in furtherance of the Municipal Land Use Law; and having considered whether the proposal is conducive to the orderly development of the site and the general area in which it is located pursuant to the land use and zoning ordinances of the Borough of Highlands; and upon the imposition of specific conditions to be fulfilled, hereby determines that the Applicant's request for preliminary site plan approval pursuant to N.J.S.A. 40:55D-46 and final site plan approval pursuant to N.J.S.A. 40:55D-50, along with design waiver relief pursuant to N.J.S.A. 40:55D-51 should be granted in this instance.

The Board finds that the Applicant has proposed to move and elevate and existing three-story multi-family residential building with four residential units, complete renovations, provide ground floor storage and garage parking, and construct two extensions, decks, and associated site improvements. Ultimately, once constructed, the subject Property would be a five-unit multi-family dwelling with no means of ingress and egress along Bay Avenue and, with respect to the Shrewsbury Avenue frontage, a depressed curb serving three (3) units and providing two (2) carports, in lieu of enclosed garages.

The proposal requires design waiver relief from the requirements of § 21-65.5.C.1 for the maximum interior driveway width with twenty-two (22) feet permitted and 34.71 feet proposed and maximum driveway width at the curb with eighteen (18) feet permitted and 36.9 feet proposed. The application complies with the Borough Ordinances in all other respects.

The MLUL permits site plan design exceptions pursuant to N.J.S.A. 40:55D-51(b). The statute permits the Board to grant a deviation from the requirements for site plan approval if (1) doing so is “reasonable”, (2) within the general purpose and intent of the provisions for site plan review and approval of an ordinance adopted pursuant to Article 4 of the MLUL; and (3) if the literal enforcement of one or more provisions of the ordinance is impracticable or will exact undue hardship because of peculiar conditions pertaining to the land in question.

Based on the testimony provided and conditions of approval agreed to by the Applicant and contained herein, the Board has determined that the design the waivers, for the maximum interior driveway width and maximum driveway width at the curb may be reasonably granted because they present a better planning alternative and safer design overall. To that end, the Board concluded that permitting a driveway cut that is beyond the maximum width permitted

would improve both site functionality and safety, offering longer lines of site for vehicles backing out onto Shrewsbury Avenue and for vehicles traveling along Shrewsbury Avenue to see the vehicles backing out onto the roadway. Similarly, permitting a wider interior driveway width (beyond that which is permitted) will increase site safety and functionality by providing wider means of ingress/egress, which should eliminate turning movements and, along with the wider curb cut (also beyond the maximum permitted) any potential incursions into oncoming traffic.

In order to satisfy any remaining concerns with respect to the means of ingress and egress being safe, the Applicant agreed as a condition of approval not to construct and/or plant any item which exceeds thirty (30) inches in height along the frontage of Shrewsbury Avenue affected by the carports, and to record this Resolution with the County.

The Applicant further agreed, as a condition of approval, to relocate the air conditioning units to be located eight (8) feet from the shared property line with Lot 15.

For the foregoing reasons, the Board therefore finds that it is appropriate to grant preliminary site plan approval pursuant to N.J.S.A. 40:55D-46 and final site plan approval pursuant to N.J.S.A. 40:55D-50, along with design waiver relief pursuant to N.J.S.A. 40:55D-51.

NOW, THEREFORE, BE IT RESOLVED by the Land Use Board of the Borough of Highlands on this 11th day of September 2025, that the action of the Land Use Board taken on August 14, 2025, granting application no. LUB 2025-05, for amended preliminary site plan approval pursuant to N.J.S.A. 40:55D-46 and final site plan approval pursuant to N.J.S.A. 40:55D-50, along with design waiver relief pursuant to N.J.S.A. 40:55D-51 is hereby memorialized as follows:

The application is granted subject to the following conditions:

1. All site improvements shall take place in strict compliance with the testimony and with the plans and drawings which have been submitted to the Board with this application, or to be revised.
2. Except where specifically modified by the terms of this resolution, the Applicant shall comply with all recommendations contained in the Reports of the Board professionals.
3. To ensure adequate site visibility, the Applicant agrees not to construct and/or plant any item which exceeds thirty (30) inches in height along the side of the Property with frontage along Shrewsbury Avenue affected by the carports.
4. The Applicant shall relocate the proposed air conditioning units to be located eight (8) feet from the shared property line with Lot 15.
5. The Applicant shall record this Resolution of Approval with the County of Monmouth.
6. The Applicant shall extend the curb cuts along Shrewsbury Avenue to approximately 36.9 feet at the curb and 34.71 feet inside the Property to avoid any lane incursion into oncoming traffic during ingress/egress from the subject Property.
7. Any future modifications to this approved plan requiring Board approval pursuant to the Borough Ordinance and applicable laws must be submitted to the Board for approval.
8. The Applicant shall apply for a CAFRA permit or FHA permit, as deemed necessary by the applicable New Jersey Department of Environmental Protection regulations.
9. The Applicant shall connect utilities to the subject Property where feasible and as required by the approved plans. The Applicant shall be solely responsible for securing any necessary utility easements.
10. The Applicant shall comply with any applicable affordable housing requirements.
11. The tandem parking spaces shall be for the exclusive use of the three (3) bedroom unit.
12. The Applicant remains subject to approval for a proposed 466 sf right-of-way dedication or easement along Bay Avenue from Monmouth County Planning Board.
13. The Applicant shall provide a certificate that taxes are paid to date of approval.

14. Payment of all fees, costs, escrows due and to become due. Any monies are to be paid within twenty (20) days of said request by the Board Secretary.
15. Subject to all other applicable rules, regulations, ordinances and statutes of the Borough of Highlands, County of Monmouth, State of New Jersey or any other jurisdiction.

BE IT FURTHER RESOLVED that the Board secretary is hereby authorized and directed to cause a notice of this decision to be published in the official newspaper at the Applicant's expense and to send a certified copy of this Resolution to the Applicant and to the Borough Clerk, Engineer, Attorney and Tax Assessor, and shall make same available to all other interested parties.


Robert Knox, Chairman
Borough of Highlands Land Use Board

ON MOTION OF: Chair Knox

SECONDED BY: Mr. Sayah

ROLL CALL:

YES: Chief Burton, Councilmember Olszewski, Mr. Sayah, Mr. Zill, Mr. Cramer, Mr. Cody, Ms. Vickery, Chair Knox

NO: None

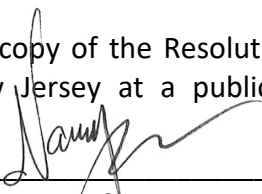
ABSTAINED: None

INELIGIBLE: Mr. Montecalvo (and arrived after vote), Ms. Chang

ABSENT: Mayor Broullon, Ms. LaRussa, Vice Chair Tierney

DATED: September 11, 2025

I hereby certify this to be a true and accurate copy of the Resolution adopted by the Highlands Land Use Board, Monmouth County, New Jersey at a public meeting held on September 11, 2025.


Nancy Tran, Secretary
Borough of Highlands Land Use Board

BOROUGH OF HIGHLANDS LAND USE BOARD
Case No. LUB25-05/Cahill
Amended Preliminary and Final Site Plan with Design Waivers
August 14, 2025

EXHIBITS

- A-1 Proposed Multi-Family Residence Site Plan Layout dated 6/9/2025
- A-2 Proposed Multi-Family Residence Site Plan Layout dated 7/26/2024
- A-3 Proposed Multi-Family Residence Neighborhood Aerial dated 6/9/2025
- A-4 Turning movement, exhibit one
- A-5 Turning movement, exhibit two
- A-6 Turning movement, exhibit three
- A-7 Turning movement, exhibit four
- A-8 Opening Statement
- A-9 Colorized Rendering of Site Plan

INTEROFFICE REPORTS

- B-1 Board Engineer's Review Letter, dated April 1, 2025
- B-2 Board Engineer's Review Letter, dated May 21, 2025
- B-3 Board Engineer's Review Letter, dated August 1, 2025