



Borough of Highlands LUB Meeting Minutes
Municipal Building, 151 Navesink Ave., Highlands, NJ
December 11, 2025

Acting Chair Tierney called the meeting to order at 7:00 pm.

ROLL CALL:

Present: Mayor Broullon, Ms. LaRussa, Mr. Montecalvo, Councilmember Olszewski, Mr. Sayah, Acting Chair Tierney, Ms. Chang, Mr. Cramer, Mr. Cody, Ms. Vickery

Absent: Chief Burton, Mr. Zill, Chair Knox

Also Present: Board Engineer Carmela Roberts, Board Attorney Dustin Glass, Board Planner Susan Gruel, Board Secretary Nancy Tran, and Assistant Board Secretary Alicia Jones

Ms. LaRussa submitted the Absent Member Certification that she watched the November 13, 2025 LUB meeting recording.

PUBLIC COMMENTS: None

COMMUNICATIONS: Acting Chair Tierney announced that the application LUB25-06: Highlands Landing Corp. – 326 Shore Dr., B100 L27 will be heard at a Special Meeting on Dec. 18th at 7pm at the Community Center, 22 Snug Harbor Ave.

ACTION ON OTHER BUSINESS:

Master Plan Planning – Susan Gruel, Board Planner, explained the purpose and process for the Master Plan. She noted that this is an opportunity for the Borough to realign the Master Plan with goals and objectives. Ms. Gruel the Board and Borough’s role is to listen. She added that we love to hear from the public and will be taking notes.

Mayor Broullon added that she has surveys from the last re-examination to share. Discussion ensued regarding planning, observations, goals, recommendations, process, best practices, and impact from the Federal, State, and County level. Mayor Broullon reminded the Board that the last re-examination happened right after Super Storm Sandy.

Ms. Gruel noted that the Master Plan is a product of the Board and is then implemented by the Council. She suggested for members to forward questions to Nancy who can then forward to the professionals. She added recommendations for how the subcommittees can proceed.

LUB2023-05 Sharkey 9 Shrewsbury B42 L2 - Interpretation & Extension Request - Section 21-17A.9 of Borough Code

Henry Wolff, Esq., applicant’s attorney, reviewed the applicant’s application, approval, and extension request. Mr. Glass further explained the situation, what the applicant is seeking, and the Board’s role. Mr. Wolff concurred with the summary.

Mary Sharkey, applicant and owner, was sworn in and explained her personal and financial situation since the Land Use Board approval. Acting Chair Tierney asked if she was asking for an

extension until June 2-26 and Ms. Sharkey replied yes, 6 additional months. Mr. Glass recommended extending to 1 year and stated that the Board can determine the length of time they will allow.

With no questions or comments from the public, Mr. Sayah motioned to approve with conditions. Mr. Glass noted the conditions.

OFFERED WITH CONDITIONS BY: Mr. Sayah

SECONDED BY: Mayor Broullon

AYES: Mayor Broullon, Ms. LaRussa, Mr. Montecalvo, Councilmember Olszewski, Mr. Sayah, Ms. Chang, Mr. Cramer, Mr. Cody, Acting Chair Tierney

NAYS: None

ABSTAIN: None

INELIGIBLE: None

ABSENT: Chief Burton, Mr. Zill, Chair Knox

Ms. Sharkey thanked the Board and noted that it was great to work with the Mayor and Nancy.

APPROVAL OF MINUTES:

November 13, 2025

OFFERED BY: Mr. Sayah

SECONDED BY: Mr. Cody

AYES: Mr. Montecalvo, Mr. Sayah, Ms. Chang, Mr. Cramer, Mr. Cody, Ms. Vickery, Acting Chair Tierney

NAYS: None

ABSTAIN: None

INELIGIBLE: Mayor Broullon, Councilmember Olszewski

ABSENT: Chief Burton, Mr. Zill, Chair Knox

RESOLUTION:

LAND USE BOARD RESOLUTION 2025-27

MEMORIALIZATION OF BULK VARIANCE RELIEF WITH DESIGN WAIVERS

IN THE MATTER OF JAMES KUBIS

Approved: November 13, 2025

APPLICATION NO. LUB2025-02

Memorialized: December 11, 2025

WHEREAS, an application for bulk variance relief with a design waiver has been made to the Borough of Highlands Land Use Board (hereinafter referred to as the "Board") by James Kubis (hereinafter referred to as the "Applicants") on lands known and designated as Block 119, Lot 2.01, as depicted on the Tax Map of the Borough of Highlands (hereinafter "Borough"), and more commonly known as 260 Navesink Avenue, Highlands, New Jersey, in the R-2.03 Single-Family Residential (R-2.03) Zone District (hereinafter "Property"); and

WHEREAS, a live public hearing was held before the Board on November 13, 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 is a 7,973-sf lot located in the R-2.03 Zone, improved with a one and a half (1 ½)-single-story frame dwelling with decking, a detached one-story garage, and other site improvements.
2. The subject Property is located on the northwest corner of Navesink Avenue (NJ State Highway No. 36), northbound and South Linden Avenue (one-way). Driveway access to the subject Property occurs via South Linden Avenue. The southern property line borders the Township of Middletown.
3. The subject Property is located within the X Flood Hazard zone and within the Steep Slopes Area, but the Applicant’s licensed Land Surveyor has determined that the average steepest slope is 7%. Therefore, the property is not subject to the steep slope provisions (but remains subject to any and all X Flood Hazard zone provisions).
4. The Applicant proposes constructing two (2) decks and performing related site improvements.
5. More specifically, the Applicant proposes to construct a flat deck (11’-9”x 19’-9”) atop the first story of the existing dwelling, located in the rear of the subject Property.
6. The Applicant also proposes to remove the existing wood deck located off the first story of the existing dwelling and construct a new lower deck (13’-9 ½”x 19’-9”) in its place.
7. The Applicant further proposes to construct staircases from the upper deck to the lower deck, and from the lower deck to the existing patio.
8. The Applicant received a Denial of Zoning Permit on February 3, 2025, for non-compliance of bulk requirements and, therefore, requires Land Use Board approval.
9. The Applicant requires two (2) bulk variances for lot depth and minimum side yard setback, and one (1) design waiver for the location of the existing air conditioning unit.
10. The nature and extent of the two (2) bulk variances is as follows:

Schedule I – Bulk and Area Requirements for R -2.03 Zone			
	Required	Existing	Proposed
Min. Lot Depth (ft.)	100	75**	75*
Min. Side Yard Setback (ft.)	6 (Navesink) 8 (South Linden)	2.8** (Navesink) 34.0 (South Linden)	2.8* (Navesink) 34.0 (South Linden)

*Proposed Variance

**Existing Variance

11. With this application, the Applicant proposes to bring an existing non-conformity, for the minimum deck setback along Navesink Avenue, into compliance as follows:

Schedule I – Bulk and Area Requirements for R -2.03 Zone			
	Required	Existing	Proposed
Min. Deck Setback (ft.) (Navesink)	3	2.3**	3

12. James Kubis, the owner of the subject Property and Applicant, was sworn in and testified about the application.

13. The Applicant summarized the application and noted that the proposed lower deck would be approximately two (2) ft. larger than the proposed upper deck.

14. The Applicant provided additional testimony that the proposed lower deck would extend two (2) feet further into the rear yard than the existing lower deck, but would not trigger any additional variance relief.

15. The Applicant further testified that his proposal would not exacerbate the existing conditions and that the side yard setback along Navesink Avenue would not be changing and would remain at 2.8ft.

16. In response to a comment by the Board Engineer, the Applicant confirmed that the existing rear deck is set back 2.3ft from Lot 3 and that the proposed lower deck is to be set back 3ft from Lot 3, thus bringing an existing nonconformity into conformity.

17. The Applicant’s Architect, Anthony M. Condouris, was sworn in and accepted as an expert in the field of architecture and testified about the application.

18. Mr. Condouris testified that the proposed upper deck would connect to the second floor of the dwelling via a doorway, with new staircases connecting the two (2) proposed decks.

19. Mr. Condouris provided additional testimony that despite the additional deck space proposed, none of the setbacks were exacerbated by the application.

20. In response to a question from the Board Engineer, Mr. Condouris confirmed that the deck setback would be brought into compliance with the proposal.

21. In response to further questions from the Board, the Applicant and Mr. Condouris testified that the Applicant’s fence encroaches upon adjoining Lot 3 by three (3) feet, but that the Applicant has entered into an Encroachment Agreement with the owner of Lot 3, which Agreement permits the fence to remain in its current location.

22. In response to additional questions from the Board, the Applicant agreed to record the Encroachment Agreement with the County of Monmouth.

23. In response to further questions from the Board Professionals, the Applicant confirmed that the A/C unit existed in its current location at the time he purchased the Property and that he did not alter the same.

24. The Board Engineer advised that the existing A/C unit is too close to the property line and that a design waiver would be needed for it to remain in its present location.

25. The Applicant further testified that the A/C unit is proposed to remain in its existing location and that he was, therefore, seeking a design waiver for the same.

26. 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 Applicants should be granted bulk variance relief pursuant to both N.J.S.A. 40:55D-70c(1) and c(2), along with design waiver relief pursuant to N.J.S.A. 40:55D-51, in this instance.

The Board finds that the Applicant has proposed constructing two (2) decks and performing related site improvements, which requires bulk variance relief. The Municipal Land Use Law, at N.J.S.A. 40:55D-70c provides Boards with the power to grant variances from strict bulk and other non-use related issues when the Applicant satisfies certain specific proofs which are enunciated in the Statute. Specifically, the Applicant may be entitled to relief if the specific parcel is limited by exceptional narrowness, shallowness or shape. An Applicant may show that exceptional topographic conditions or physical features exist uniquely affect a specific piece of property. Further, the Applicant may also supply evidence that exceptional or extraordinary circumstances exist which uniquely affect a specific piece of property or any structure lawfully existing thereon and the strict application of any regulation contained in the Zoning Ordinance would result in a peculiar and exceptional practical difficulty or exceptional and undue hardship upon the developer of that property. Additionally, under the “c(2)” criteria, the Applicant has the option of showing that in a particular instance relating to a specific piece of property, the purpose of the Act would be advanced by allowing a deviation from the Zoning Ordinance requirements and the benefits of any deviation will substantially outweigh any detriment. In those instances, a variance may be granted to allow departure from regulations adopted, pursuant to the Zoning Ordinance.

Those categories specifically enumerated above constitute the affirmative proofs necessary in order to obtain “bulk” or (c) variance relief. Finally, the Applicant must also show that the proposed variance relief sought will not have a substantial detriment to the public good and, further, will not substantially impair the intent and purpose of the Zone Plan and Zoning Ordinance. It is only in those instances when the Applicant has satisfied both these tests that a Board, acting pursuant to the Statute and case law, can grant relief. The burden of proof is upon the Applicant to establish these criteria.

The Board finds that the Applicant has satisfied the positive criteria. The Board finds that the proposed decks and stairways will upgrade the existing residential structure and will be consistent with neighboring development. The Board further finds that the proposed decks will be aesthetically pleasing and create a desirable visual environment which will be commensurate with other homes in the neighborhood. The Board further finds that the subject Property is unique and unusual with respect to its dimensions. Ultimately, the Board finds that the grant of variance relief will result in a visually desirable dwelling which will not only benefit the Applicant but will also advance the interests of the entire community. The Board therefore concludes that the goals of planning as enumerated in N.J.S.A. 40:55D-2 have been advanced. The Applicant has therefore satisfied the positive criteria.

The Board also finds that the negative criteria has been satisfied. The proposed decks requiring variance relief will not cause a detriment to the community in any discernible way. In fact, the Board finds that proposed decks will still be consistent and fit in seamlessly with the prevailing neighborhood residential scheme. The proposal is consistent with the Borough’s overall goals and objectives of providing new, safe and visually attractive homes and will advance the general

welfare for both the Applicant and the neighbors alike. Granting of the variance sought by the Applicant will also not result in any substantial detriment to the public welfare or impair the purpose or intent of the Zone Plan or Zoning Ordinance.

The Board further finds that the Applicant will bring the Property into further conformity with the Zoning Ordinance, by proposing to eliminate the existing variance for the minimum deck setback. Additionally, the Board finds that the Applicant and the property owner of Lot 3 have entered into an Encroachment Agreement, permitting the fence that encroaches upon Lot 3 to remain in its current location, which Agreement shall be recorded with the County. The Board therefore concludes that the negative criteria has therefore been satisfied pursuant to N.J.S.A. 40:55D-70c(2).

The Board concludes that the positive criteria substantially outweighs the negative criteria and that bulk variance relief may be granted pursuant to N.J.S.A. 40:55D-70c(2).

The proposal also requires design waiver relief from the requirements of § 21-65.27.C for the location of the existing A/C unit. 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, the Board has determined that the design the waiver, for the location of the existing air conditioning unit may be reasonably granted because it presents a better planning alternative and safer design overall, and exists in an appropriate location with respect to the subject Property. For the foregoing reasons, the Board therefore finds that it is appropriate to grant design waiver relief pursuant to N.J.S.A. 40:55D-51.

NOW, THEREFORE, BE IT RESOLVED by the Borough of Highlands Land Use Board on this 11th day of December 2025, that the action of the Board taken on November 13, 2025, granting application no. LUB 2025-02 of James Kubis for bulk variance relief pursuant to N.J.S.A. 40:55D-70c(1) and “c(2)” and 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 improvement 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’s Professionals.
3. The Applicant shall apply for all necessary Zoning Permit(s).
4. With respect to the Applicant’s fence that encroaches upon adjoining Lot 3 by

three (3) feet, the Applicant has entered into an Encroachment Agreement with the owner of Lot 3, which Agreement permits the fence to remain in its current location. The Applicant shall record the Encroachment Agreement with Monmouth County and provide proof of the same. Failure to record the Encroachment Agreement shall require the Applicant to remove the fence or seek further relief from the Land Use Board with respect to the same.

5. Any ambiguities regarding the interpretation of this Resolution related to major site plan modifications shall be resolved by the Land Use Board upon due notice to the public.

6. The Applicant shall provide a certificate that taxes are paid to date of approval.

7. This approval is subject to the Applicant's continuing payment of all fees, costs, escrows due or to become due. Any monies are to be paid within twenty (20) days of said request by the Board Secretary.

8. Prior to the issuance of building permits, the Applicant shall be responsible for obtaining any other approvals or permits from other governmental agencies, as may be required by law, including all applicable Federal, State, County, and Municipal regulations.

9. 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.

ON MOTION OF: Mr. Cody

SECONDED BY: Mr. Montecalvo

AYES: Mayor Broullon, Mr. Montecalvo, Councilmember Olszewski, Mr. Sayah, Ms. Chang, Mr. Cramer, Mr. Cody, Ms. Vickery, Acting Chair Tierney

NAYS: None

ABSTAINED: None

INELIGIBLE: None

ABSENT: Chief Burton, Mr. Zill, Chair Knox

HEARINGS ON OLD BUSINESS:

LUB25-10: Solar Powered 44 – 44 Miller St., B58/7.01

Mayor Broullon and Councilmember Olszewski stepped down from the dais.

Brad Batcha, Esq., applicant's attorney, reviewed the testimony heard so far, the updated plans – what has been changed since and what remained the same. He referenced the 2020 Survey by Charles Surmonte and the proposed project. Acting Chair Tierney noted that Mr. Batcha's statement tonight differed from testimony regarding the applicant's timeline that was given last month. Mr. Batcha corrected himself. Acting Chair Tierney asked for the proof of payment that the Board requested. Mr. Landgrebe shared the bank statement with cancelled check for the demolition and construction permits. He noted additional records he had relating to the project. Acting Chair Tierney asked whether proof of disconnected utilities were also required for lifting

a house. When Mr. Landgrebe answered in the affirmative, Acting Chair Tierney stated that she was looking for a zoning approval for a new construction. Mr. Sayah asked for a demolition permit prior to the house being torn down. Mr. Batcha stated that his client has been working to locate the missing documents the Board requested. Discussion ensued regarding demolition protocol and process, missing demolition permit, hazardous waste removal protocol and process, Mr. Landgrebe's experience in construction and as a builder, and that once a structure is torn down that it has to adhere to the current zoning. Mr. Batcha noted that Mr. Landgrebe had testified that the zoning official said that he could reconstruct if he stayed within the existing footprint. Mr. Landgrebe added that he proceeded based on Middletown's recommendations and that he did the demolition and building himself. Mr. Glass reviewed what the applicant testified and what was presented so far.

Donna Bullock, applicant's engineer, was sworn in and her credentials accepted. She described the property and her firm's services for the applicant. She described the landscaping plans and the turn radius of the driveway. She reviewed Ms. Robert's letter dated 12/11/2025 and noted that applicant's agreement to comply. Ms. Bullock then compared her survey with the 2020 survey.

Ms. Bullock continued testifying about similar neighboring properties that related to Ms. Gregory's, the applicant's planner, testimony. Acting Chair Tierney noted that the Board asked for similar properties along Miller St. Ms. Bullock stated that her firm was engaged with the structure already built. Mr. Glass noted that Ms. Bullock was not testifying whether the structure was built legally or not and suggested that she be allowed to continue her testimony of neighboring properties. Ms. Gruel noted that none of the examples Ms. Bullock gave were 3-story structures.

The Board took a break at 8:47pm and returned at 8:59pm. **SECOND ROLL CALL:**

Present: Mayor Broullon (in public), Ms. LaRussa, Mr. Montecalvo, Councilmember Olszewski (in public), Mr. Sayah, Acting Chair Tierney, Ms. Chang, Mr. Cramer, Mr. Cody, Ms. Vickery
Absent: Chief Burton, Mr. Zill, Chair Knox

Also Present: Board Engineer Carmela Roberts, Board Attorney Dustin Glass, Board Planner Susan Gruel, Board Secretary Nancy Tran, and Assistant Board Secretary Alicia Jones.

Jim Daly, applicant's architect, noted that the back deck was removed from the plans, which positively impacted the property and shared the color renderings. Acting Chair Tierney asked about the planter's position over the property line and that the finish will further exacerbate it. Mr. Montecalvo added noted that it obstructs the view point of turning cars and asked for clarification regarding the existing footing and the location of the new foundation. Mr. Batcha stated that their engineer had testified that the foundation was in the same location. Mr. Landgrebe and Mr. Daly further explained the location of the footings.

Carolyn Broullon, Miller St., asked why the current Construction Official's signature was on the 2021 construction permit. Ms. Jones explained that that is how the software produces stored permits. Ms. Broullon asked for the original permit.

Ms. Roberts noted that Ms. Bullock's review addressed the gap between 2021 and 2024 but it did not explain how the applicant was issued a notice of unsafe structure in 2024. Mr. Landgrebe explained. Ms. Roberts, based on the timeline given, still did not understand how the construction became an unsafe structure. Discussion ensued regarding the project timeline. Mr. Landgrebe stated that given approval, he could finish the project within 12 months.

Ms. Gruel asked about the existing nonconforming use and noted that the previous structure was a 1-story and that the proposed project was asking the Board to consider allowing the nonconforming use and addition. Mr. Batcha stated that they are seeking a d2 variance for expanding the nonconformity. He added that if the Board did not approve the d2 variance that they will revert to requesting for a d1 variance.

Mr. Glass asked what the Board wanted the applicant to provide for the next meeting. The Board agreed that Mr. Landgrebe needs to provide proof that are explicitly required for a demolition and not for a house lift. The Board required documentation of the hazardous waste removal.

Jo-Anne Olszewski, Grand Tour, asked if Mr. Landgrebe knew what variances were needed before he started building.

Ms. Chang questioned the dates on the architectural plans.

Mr. Glass asked if the applicant finished their testimony. Mr. Batcha stated that his professionals were done but that his client may provide more testimony. Mr. Glass explained what the Board needs to deliberation on for the next meeting. Acting Chair Tierney wanted a clearer timeline. Mr. Glass stated that no further noticing would be required.

ADJOURNMENT

Offered by Mr. Cody and seconded by Ms. LaRussa. All in favor. None opposed. Meeting adjourned at 10:13 pm.

I, Nancy Tran, certify that this is a true and correct record of the actions of the Borough of Highlands Land Use Board December 11, 2025

Nancy Tran, Land Use Board Secretary