

**BOROUGH OF HIGHLANDS
PLANNING BOARD
REGULAR MEETING
FEBRUARY 9, 2006**

Mr. Stockton called the meeting to order at 7:42 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. Urbanski, Mr. Schoellner,
Mr. Gilson, Mr. Stockton, Mr. Cefalo**

Absent: Mayor O'Neil, Mr. Bahrs, Mr. Harrison

**Also Present: Carolyn Cummins, Board Secretary
Jack Serpico, Esq., Board Attorney
Jaclyn J. Flor, P.E., Board Engineer**

**PB#2005-11 Broderick, Shaun – Request for Postponement of PH to March 9, 2006
Block 60 Lot 7 – Shore Drive**

Mr. Stockton stated that the Board received a letter from the applicant requesting a postponement of the public hearing.

Mr. Mullen offered a motion to reschedule the public hearing on this matter to March 9, 2006, seconded by Mr. Schoellner and approved on the following roll call vote:

ROLL CALL:

**AYES: Mr. Manrodt, Mr. Kovic, Mr. Mullen, Mr. Urbanski, Mr. Schoellner,
Mr. Gilson, Mr. Cefalo, Mr. Stockton**

NAYES: None

ABSTAIN: None

**PB#2006-1 Fleming, Daniel
Block 26 Lot 12 – 127 Highland Avenue
Application Review & Schedule P.H. Date**

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Present: Daniel Fleming

Mr. Fleming stated that he is the owner of the subject property and he proposes to move the existing house closer to Highland Avenue which would allow for a full basement and to subdivide the lot into two lots and construct a new dwelling on the new lot on Bay Street.

The Board reviewed the application and made the following comments:

1. The applicant must provide the average setback calculations of the properties within 200-feet of the subject lot.
2. Provide a site profile.
3. A variances for building within a steep slope area will be required and the applicant will need to address that.
4. The applicant must provide elevations and building height.
5. The applicant must have the survey amended to show street and right of way widths and surrounding properties within 200-feet.
6. Testimony will be required for drainage and water run off.
7. The applicant must show the grading around the proposed house on the survey.
8. The applicant must provide slope stability studies regarding the disturbance of the steep slope.
9. The applicant should review the proposed to determine all variances required.
10. The applicant must serve public notice.
11. The applicant must provide photographs of the site and the surrounding properties.

Mr. Manrodt offered a motion to schedule this matter for a public hearing on March 9, 2006, seconded by Mr. Kovic and approved on the following roll call vote:

ROLL CALLL:

**AYES: Mr. Manrodt, Mr. Kovic, Mr. Mullen, Mr. Urbanski, Mr. Schoellner,
Mr. Gilson, Mr. Cefalo, Mr. Stockton**

NAYES: None

ABSTAIN: None

**Highlands Board of Education
Request for a Meeting Date to Present Long Range Facility Plan**

Mr. Stockton stated that they have requested a meeting date of March 9, 2006.

Mr. Manrodt offered a motion to schedule this matter for March 9, 2006, seconded by Mr. Mullen and approved on the following roll call vote:

ROLL CALL:

**AYES: Mr. Manrodt, Mr. Kovic, Mr. Mullen, Mr. Urbanski, Mr. Schoellner,
Mr. Gilson, Mr. Cefalo, Mr. Stockton**

NAYES: None

ABSTAIN: None

Approval of Resolutions:

Zoning Amendment Recommendations

Mr. Manrodt offered the following Resolution and moved on its adoption:

**RESOLUTION
BOROUGH OF HIGHLANDS PLANNING BOARD**

WHEREAS, the Mayor and Council of the Borough of Highlands authorized the Planning Board by resolution to undertake a review of proposed Borough Ordinance 05-23, which Ordinance will amend the Borough Zoning and Land Use Ordinances; and

WHEREAS, the Municipal Land Use Act, i. e. N.J.S. 40:55D-26, requires that the Planning Board prepare and transmit a report back to the Governing Body; and

WHEREAS, said statute does further require that the report of the Planning Board shall include an identification of any provision or provisions set forth in the proposed ordinance amendment which is or are inconsistent with the Borough Master Plan and contain recommendations concerning those inconsistencies and any other matters as the Board deems appropriate; and

WHEREAS, the Board conducted a review of the proposed amendment on January 12, 2006; and

WHEREAS, the Board received comments both written and oral from Board members, the Board Engineer and Attorney and various members of the public and a revised draft amendment to the proposed ordinance prepared by a Board subcommittee and Martin P. Truscott, P.P., A.I.C.P., Planning Consultant from T & M Associates dated December 6, 2005.

NOW, THEREFORE BE IT RESOLVED, by the Planning Board of the Borough of Highlands that:

1. The Board recommends that the Mayor and Council consider incorporating the proposed amendments drafted on behalf of the Board subcommittee, which are annexed hereto and made a part hereof.
2. The Board acknowledges the public comments at the January 12, 2006 Planning Board meeting concerning the land use designation of the Locust Street area as Mixed Use in the Master Plan. The Board recommends that the Mayor and Council consider recognition of the Locust Street single family neighborhood in the proposed zoning amendment.
3. With the exception of the foregoing, the Board finds that the proposed ordinance is consistent with Borough Master Plan.
4. The Board also recommends that the Mayor and Council consider the written communications from various members of the public and their Legal Counsel which are annexed hereto and made a part hereof in their discussions of the proposed ordinance; and

BE IT FURTHER RESOLVED that the Board hereby directs the Board Secretary to transmit said findings to the Clerk of the Borough of Highlands pursuant to the Statute first mentioned above forthwith for consideration by the Mayor and Council of the Borough of Highlands.

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

ROLL CALL:

**AYES: Mr. Manrodt, Mr. Kovic, Mr. Mullen, Mr. Urbanski, Mr. Schoellner,
Mr. Gilson, Mr. Cefalo, Mr. Stockton**

NAYES: None

ABSTAIN: None

Henry Hudson Regional – Long Range Facility Plan

Mr. Manrodt offered the following Resolution and moved on its adoption:

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WHEREAS, the Planning Board has received from the Henry Hudson Regional School District Board of Education, the District's Five Year, Long Range Facilities Plan, under cover letter dated October 31, 2005, from Katherine E. McDonald-Ott, Business Administrator/Board Secretary; and

WHEREAS, the Planning Board pursuant to N.J.S. 40:55D-31b, is required to review all long range facilities plans prepared by the school district or board pursuant to the Educational Facilities Construction and Financing Act (i.e. N.J.S. 18A:7G-1 et al.), for the purpose of reviewing the extent to which the long range facilities plan is informed by, and consistent with, the land use plan element and the housing element contained within the municipal master plan and to further determine whether the prospective sites for school facilities contained in the long range facilities plan promote more effective and efficient coordination of school construction with the development efforts of the municipality.

NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the Borough of Highlands, assembled in public session on January 12, 2006, that the following findings and determinations are hereby adopted by the Planning Board:

1. The Board finds that it has the jurisdiction to act upon the review of the Specifications and the Plans pursuant to the Municipal Land Use Act of the State of New Jersey.
2. The Planning Board finds that the plans and specifications submitted are informed by and consistent with the land use and housing elements of the master plan of the Borough of Highlands.
3. The Planning Board does further find that prospective site(s) for school facilities contained in the plan promote the effective and efficient coordination of school construction with the development efforts of the Borough of Highlands.

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

ROLL CALL:

AYES: Mr. Manrodt, Mr. Kovic, Mr. Mullen, Mr. Urbanski, Mr. Schoellner,
Mr. Gilson, Mr. Cefalo, Mr. Stockton

NAYES: None

ABSTAIN: None

Professional Legal Services

Mr. Manrodt offered the following Resolution be memorialized and moved on its adoption:

**RESOLUTION
FOR PROFESSIONAL LEGAL SERVICES
FOR THE BOROUGH OF HIGHLANDS PLANNING BOARD**

WHEREAS, the Borough of Highlands Planning Board has a need for professional legal services for the Planning Board; and

WHEREAS, such professional legal services can only be provided by a licensed professional; and

WHEREAS, the Borough of Highlands Planning Board memorialized a Resolution on January 12, 2006 appointing Jack Serpico, ESQ., from the firm of Jack Serpico, Esq. as Planning Board Attorney for a term of one (1) year expiring December 31, 2006; and

WHEREAS, the Planning Board has reviewed the 2006 Professional Legal Services Contract for Jack Serpico, Esq.; and

WHEREAS, this contract is to be awarded for an amount not to exceed \$3,375.00 for legal services provided to the Borough of Highlands Planning Board for the period of January 1, 2006 through June 30, 2006; and

WHEREAS, certification of availability of funds is hereby provided by the Chief Financial Officer:

Planning Board Budget
Account #1141 – 3755 - \$3,375.00
January 1, 2005 – June 30, 2006

Stephen Pfeffer, Chief Financial Officer

WHEREAS the Local Public Contracts Law, NJSA 40A:11-1 et. seq. requires that notice with respect to contracts for professional services awarded without competitive bids must be publicly advertised.

NOW, THEREFORE, BE IT RESOLVED by the Borough of Highlands Planning Board as follows:

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1. That JACK SERPICO, ESQ., from the firm of JACK SERPICO, ESQ., is hereby retained to provide Professional legal services as described above for an amount not to Exceed \$3,375.00 for the period of January 1, 2006 through June 30, 2006.
2. This contract is awarded without competitive bidding as a "Professional Services" in accordance with the Local Public Contracts Law, NJSA 40A:11-5(1)(a)(i) because it is for services performed by persons authorized by law to practice a recognized profession.
3. A copy of this Resolution shall be placed on file with the Planning Board Secretary.
4. The Borough of Highlands Planning Board Secretary is hereby directed to publish notice of this award as required by law.

Seconded by Mr. Schoellner and adopted on the following Roll Call Vote:

ROLL CALL:

**AYES: Mr. Manrodt, Mr. Kovic, Mr. Mullen, Mr. Urbanski, Mr. Schoellner,
Mr. Gilson, Mr. Cefalo, Mr. Stockton**

NAYES: None

ABSTAIN: None

Professional Engineering Services

Mr. Manrodt offered the following Resolution be memorialized and moved on its adoption:

**RESOLUTION
FOR PROFESSIONAL ENGINEERING SERVICES
APPROVING 2006 CONTRACT
FOR THE BOROUGH OF HIGHLANDS PLANNING BOARD**

WHEREAS, the Borough of Highlands Planning Board has a need for professional engineering services; and

WHEREAS, such professional engineering services can only be a provided by a licensed professional; and

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WHEREAS, the Borough of Highlands Planning Board memorialized a Resolution on January 12, 2006 appointing Robert Bucco, P.E., from the firm of T & M Associates as Planning Board Engineer for a term of one (1) year expiring December 31, 2006; and

WHEREAS, the Planning Board has reviewed the 2006 Professional Engineering Services Contract; and

WHEREAS, this contract is to be awarded for an amount not to exceed \$2,100.00, for engineering services provided for the Borough of Highlands Planning Board for the period of January 1, 2006 through June 30, 2006; and

WHEREAS, certification of availability of funds is hereby provided by the Chief Financial Officer:

Planning Board Budget
Account #1141 – 3757 = \$2,100.00
January 1, 2006 – June 30, 2006

Stephen Pfeffer, Chief Financial Officer

WHEREAS the Local Public Contracts Law, NJSA 40A:11-1 et. seq. requires that notice with respect to contract for professional services awarded without competitive bids must be publicly advertised.

NOW, THEREFORE, BE IT RESOLVED by the Borough of Highlands Planning Board as follows:

1. That Robert Bucco, P.E., from the firm of T & M Associates is hereby retained to provide Professional Engineering services as described above for an amount not to Exceed \$2,100.00 for the period of January 1, 2006 through June 30, 2006.
2. This contract is awarded without competitive bidding as a “Professional Services” in accordance with the Local Public Contracts Law, NJSA 40A:11-5(1)(a)(i) because it is for services performed by persons authorized by law to practice a recognized profession.
3. A copy of this Resolution shall be placed on file with the Planning Board Secretary.

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4. The Borough of Highlands Planning Board Secretary is hereby directed to publish notice of this award as required by law.
5. The Chairman and Planning Board Secretary are hereby authorized to execute said contract for the year 2006.

Seconded by Mr. Schoellner and adopted on the following Roll Call Vote:

ROLL CALL:

**AYES: Mr. Manrodt, Mr. Kovic, Mr. Mullen, Mr. Urbanski, Mr. Schoellner,
Mr. Gilson, Mr. Cefalo, Mr. Stockton**

NAYES: None

ABSTAIN: None

**PB# 2005-2 Johnson, William
Block 40 Lot 5 – 78 Navesink Avenue
Unfinished Public Hearing**

**Present: Martin McGann, Esq., Applicants Attorney
William Johnson, Applicant**

Conflict: Mr. Stockton stepped down on this matter.

Mr. McGann stated that this is a continuation of the hearing on this matter. We commenced this hearing initially back on June 9, 2005 and August 11, 2005. There really aren't any variances associated with this application. It is a minor subdivision and the variances associated with this application are pre-existing as to the existing dwelling. There are two dwellings and a garage on this site and we are essentially eliminating a non-conforming use structure by subdividing the property and building a new structure. The law does favor the elimination of non-conformities. There will be two lots with a one family home on each lot with an access drive from Route 36 to the rear portion of the property which fronts on Shore Drive which is subject to various steep slopes, but it does have adequate frontage on an improved right of way. During the course of the hearing an issue arose concerning the construction of a replacement Allen Block retaining wall. At that time the Board instructed us to proceed to apply for a building permit for the retaining wall and we did that. We made an application to the Zoning Officer and she responded on September 19, 2005 stating that an engineering review is required for the retaining wall because it was over 3 1/2-feet high and in the remarks it stated that the proposed wall conforms to zoning regulations, which was signed by Mary Tangolics, Zoning Officer.

His client then proceeded to apply for the building permits for the wall and it was inspected by both the Planning Board Engineer and the Construction Officials and he does have a final approval for that.

The following was marked into evidence:

**A-11: Zoning Officers Determination re: Retaining Wall dated 9/19/05;
A-12: Building Permits for Retaining Wall.**

Mr. McGann stated that we are at a point with this application where we do have a minor subdivision. We do not have any variances associated with this subdivision other than the pre-existing non-conforming associated with the existing dwelling that fronts on Highway 36 in relationship to existing building height 30.7-feet where 30 is permitted and some setbacks associated with the existing structure. That is all that I have this evening unless the Board has questions.

Mr. Kovic stated that he had previously requested for the applicant to provide the location of the original top of the bank prior to any disturbance or prior to any construction of any retaining wall and he was looking for that information.

Mr. McGann stated that there was a review by T & M Associates regarding their findings as to the prior wall which they found to be further east of the new wall. The new dwelling is a considerable distance from the top of the slope, 35-feet on the revised plans, which he further explained. The top of the hill begins approximately where the wall is today. The Zoning Officer has stated that the wall complies with zoning regulations. The proposed home is more than 25-feet from where the bank exists today. Approximately where the wall is, is where the bank started. The degree of slope is not necessarily the degree of slope that can not be disturbed which he further described.

The Board continued to discuss with Mr. McGann the location of the top of the slope and the retaining wall matter.

Jaelyn Flor, P.E. stated that she has a letter dated July 14, 2005 which states that the new wall was constructed further up the slope than the prior wall. It appears that the applicant filled the rear yard behind the wall approximately one to two feet.

Mr. McGann stated that the fact of the matter is there is no zoning issue before this board to consider. The Zoning Officer reviewed it and said that there are no zoning issues. This is a minor subdivision with no variances and that is what the board has to consider.

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Mr. Kovic stated that before this went to the Zoning Officer he asked Mr. McGann to provide the location of the original top of the bank and that was not provided. He is not satisfied with the answer.

Mr. Mullen stated that Mr. McGann stated that there are no variances required for this applicant and one of the reasons is that the rear lot is facing a street and that there is access over an easement from the front lot. He believes that the access easement over the front lot while it doesn't take away from the lot area it certainly encumbers the use of the front lot so that they don't have the full use and in his mind they don't have the full lot area because its not really there, its encumbered by a driveway. The fact that the rear lot is facing Shore Drive is factual, but because of the steepness of the slope access from Shore Drive it not possible and because of that this is not a suitable lot to subdivide because they can not get access from Shore Drive and the fact that you need to encumber the free use of the front lot.

Mr. McGann stated that the steepness of access to Shore Drive is the hardship aspect of the case.

Mr. Kovic asked if there were any questions.

Mr. McGann stated that the public hearing was closed on this application. He also reminded the board that there are already two existing homes on this property and the one in the rear will be demolished and a new home will be constructed. So there isn't a lot that is really changing. With regard to suitability, what aspects of the bulk standards is the applicant violating?

Mr. Mullen stated that because of the topography of the site it is less usable because of the steep slope and they are not allowed to build within the steep slope and therefore denies access to the public right of way. Even though it's not in the letter of our ordinance when it says that every public building shall face a public right of way, I think that the intent is that that's how you egress and ingress the property and they can't provide that.

Mr. McGann stated that he does not agree with that which he further explained.

Mr. Kovic asked if there were any questions from the public.

Mr. Serpico advised Mr. Kovic that the minutes from the August 11th meeting indicate that Mr. McGann did not have any problem with opening up the public portion again as long as it pertains to new reports that were submitted.

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Mr. Manrodt – that’s the wall.

Mr. McGann stated that the wall was determined by the Zoning Officer to not have any zoning issues. There are no issues before this board with regard to the wall.

Mr. Kovic stated that he wanted to open this up to the public to find out if any neighbors are here to provide testimony as to where the rear of there property ends and the steep slope begins because he does not feel that he has received a clear answer.

Mr. McGann – if we were in fringing on your steep slope ordinance that would be a violation of the zoning ordinance and the Zoning Officer ruled that it was not.

Mr. Serpico stated that the Zoning Officer issued a zoning permit on September 19th and in her remarks she states that the proposed wall conforms to the zoning regulations. If you don’t agree with the Zoning Officer than you had 20-days to appeal her decision.

Mr. McGann objected to opening this up to the public for comments with regard to the retaining wall because the Zoning Officer has determined that there is no issue before this board with regard to the retaining wall. This is a minor subdivision that they are entitled to by right.

Mr. Kovic stated that this is not about the retaining wall. He wants to locate where the top of the bank begins and ends which he further explained.

Mr. Kovic asked if there were any questions from the public.

Ursula Aumann of 72 Navesink Avenue stated that she is very disappointed that she is not allowed to make statements because she has been a witness with regard to the back filling

Mr. Serpico then swears in Ursula Aumann of 72 Navesink Avenue.

Mr. Kovic questioned Ms. Aumann with regard to the slope and the grading on the subject lot.

Ursula Aumann stated that she is concerned with the safety of the hill which she further explained.

Mr. McGann stated that the retaining wall was reviewed by two engineering firms and found to be structurally sound by both engineers.

Mr. McGann stated that the retaining wall was designed to retain the soil and to prohibit run off. He then asked her if she through debris and brush down her hill.

Mr. Aumann stated that yes she has done that, thrown her grass clippings and small pruning.

Mr. Kovic asked if there were any further questions from the public; there were none. The public question portion of the hearing was closed.

Mr. Kovic then asked if there were any statements from the public.

Ursula Aumann stated that from what she has observed she is very concerned about the stability of the slope since the wall was erected after the hill had been cleared cut and then filled in with truck loads of fill. She has lived at this house for over ten years and stated that there was never any wall prior to the current wall. She then further described the wall construction and clearing of the hill and her concerns with the stability of the slope. She then asked if she can submit photographs.

Mr. McGann stated hat the public hearing was closed and this is for comments only and he stated that he objects to these comments because the wall is not an issue.

Mr. Kovic stated that he will allow for the photographs to be submitted into evidence.

The following was marked into evidence:

- O-1: Photograph taken two years ago before the wall was constructed.
- O-2: Fifteen photographs of the site
- O-3: Letter from Ursula Aumann describing all of the photographs.

Mr. Serpico questioned Ms. Aumann with regard to when the photos were taken and the location of where they were taken.

Mr. McGann again objected to this procedure.

Mr. McGann then looked at the O-1 and questioned Ms. Aumann about the photo.

Ms. Aumann continued to describe all of the photographs and the photos were shown to both the Board and Mr. McGann.

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Mrs. Aumann in describing the photos made a comment about clear cutting and Mr. McGann objected to that comment.

Mrs. Aumann continued to describe all of the photographs that were marked O-2 and Mr. McGann questioned her about the photographs.

Mr. McGann objected to the submittal of O-3.

Ursula Aumann stated that her main objection to this application is that she is concerned about the slope coming down and also the tree that is on her property, she is concerned about the tree coming down due to the erosion of the slope.

Mr. McGann asked her if the applicant went on her property and disturbed any of her property.

Ursula Aumann – no, but her concern is the erosion of the slope which was artificially retained by building this wall.

Mr. Serpico then swears in the applicant William Johnson.

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

1. He described exhibit A-13 which was a photograph taken last August of 2005 which shows debris that was from his neighbors Mrs. Aumann and Mrs. Thomson which was dumped down the back of their slope. He stated that one of the reasons for rebuilding the wall was to protect his property because his neighbors were continually killing the vegetation on the slope by dumping. It's not just clippings, its concrete etc.

Mr. McGann then showed A-13 to Mrs. Aumann and questioned her about the dumpings and if they were hers.

Ursula Aumann stated that those branches are probably from her garden and if they are her branches then she probably put them there.

Mr. McGann – Mrs. Aumann, you are concerned about the condition of the slope and slope erosion?

Ursula Aumann – correct

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Mr. McGann – and despite that assuming for one minute the consequences associated with doing something of this nature (dumping), do you realize what the consequences are?

Ursula Aumann – I am probably stabilizing the hill.

Mr. Johnson then described A-14 which is a photograph taken on August 9th, 2005 when he came home and saw his two neighbors, Mrs. Aumann and Mrs. Thomson digging up on a slope and cutting down vegetation and throwing things down the slope so he took these photos. He said something to them and they yelled unmentionable names. They then went on to his property and vandalized his retaining wall and they cut down trees. He did file a formal complaint with the Code Enforcement Officer for the cutting down of the vegetation.

Mr. McGann then showed Mrs. Aumann the photo which was marked A-14.

Ursula Aumann stated that it was her property in the photo.

Mrs. Aumann stated that she had nothing further on this matter.

Mr. Johnson stated that the retaining wall is about two feet further up the slope than the original wall was.

The Board questioned Mr. Johnson about the old retaining walls location verses the new retaining wall.

Mr. Johnson stated that the old wood deck was about six to eight feet from the garage. The wood deck was not positioned on a slope.

The Board discussed the ridge line with the Mr. McGann and the applicant.

Ms. Flor, P.E. then read from the steep slope ordinance the regulations about disturbance. You can not disturb any slope more than 35 %. You can disturb a slope from 1% to 34% with conditions which she further described.

Mr. McGann requested that Ms. Flor review the survey from the Stockton plan of 10/19/05 and scale the measurements back 25-feet from the proposed house to see where they are.

Ms. Flor – from the garage, it's about 10-feet past the garage. So the twenty five feet is 10-feet past the garage.

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Mr. McGann – there is no proof that at that mark the slope is at 35%. I have a zoning permit that states that there are no zoning issues and he objects to the whole proceeding.

Mr. McGann then asked Ms. Flor to measure from the framed garage to the where her mark is.

Ms. Flor – it is exactly 9-feet.

The Board continued to discuss the top of the ridge with Mr. McGann.

Mr. Serpico advised the Board they have to decide based on what you believe that the evidence shows.

Mr. Johnson stated that he bought the property on 4/29/04 and he had a survey done before he owned the property and before he did any work on the property. The survey was marked A-15 which was prepared by Mr. Ernst dated 4/16/04. This survey depicts the garage, the wood deck in the rear, the top of the bank.

The Board then looked at A-15.

The Board attorney requested a brief recess.

Mr. Manrodt offered a motion to take a five minute recess, seconded by Mr. Mullen and all were in favor

The Board took a break at 9:22 P.M.

Mr. Kovic called the meeting back to order at 9:31 P.M.

Mr. McGann – A-15 is a survey that was done before his client did anything to this property which shows the top of the bank. He also renewed his objection to the retaining wall aspect because the board has no jurisdiction.

Mr. Mullen stated that there has been some difference in where this wall is located. Even in the documentation that the applicant has presented. One shows it in one location and another survey shows it in another location.

Mr. Kovic stated that we will have our Board Engineer review A-15 to determine the top of the slope and verify the differences in the surveys.

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Mr. Serpico asked if there were any members of the public who wished to make a comment on this application; there were none.

Mr. Manrodt offered a motion to close the public portion, seconded by Mr. Mullen and all were in favor.

Mr. McGann stated that he record reflects that there are only four eligible voters present this evening and asked if members would listen to the tapes to be eligible to vote.

Mr. Manrodt offered a motion to carry this public hearing to the March 9, 2006 meeting, seconded by Mr. Schoellner and approved on the following roll call vote:

ROLL CALL:

**AYES: Mr. Manrodt, Mr. Kovic, Mr. Mullen, Mr. Urbanski, Mr. Schoellner,
Mr. Gilson, Mr. Cefalo**

NAYES: None

ABSTAIN: None

Mr. McGann granted the board a time extension through March 31, 2006.

Mr. Stockton returned to the meeting table.

**PB#2005-8A Osborn, Chris
Block 58 Lot 26 – 164 Bay Avenue
Hearings on New Business**

Present: Chris Osborn, Applicant

Mr. Serpico stated that he has reviewed the public notice and finds everything to be in order therefore the Board has jurisdiction to proceed on this matter.

Mr. Osborn stated that he is here this evening to apply for amended site plan approval.

Mr. Serpico swears in Christopher Osborn, 11 Unity Court, Middletown, NJ.

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

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1. He is the owner of subject property located at 164 Bay Avenue.
2. The Monmouth County Planning Board determined that the distance is not enough to accommodate turning radius for three cars, which were originally proposed to be parked on site. They said because of the sizes they wanted to eliminate all parking.
3. He then appealed their decision to remove all on site parking and they concluded that he could provide for two off street parking spots on his site provided that the two spaces be designated. One for the tenant and on space for the shop owner. The rear will be blocked by a fence to eliminate stacked parking. The Monmouth County Planning Board did not want to have a lot of traffic coming in and out of the site.
4. The County also required him to deed back five feet of frontage to them for a future right of way.
5. He now has a parking deficiency of three parking spaces with the amendments.

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

Tony Sloan was sworn in and stated the he spoke with the applicant and the applicant has agreed to have a licensed surveyor install property stakes to establish the property lines. He would like to make this a condition.

There were no further questions from the public.

Mr. Stockton asked if there were any comments from the public, there were none.

The Board closed the public portion of the meeting.

Mr. Osborn stated that he agreed to make the arrangement to have the property stakes put in.

The Board did not feel that the property stakes need to be made as a condition. The applicant has already agreed to do that.

Mr. Manrodt offered a motion to approve the Osborn application, seconded by Mr. Kovic and approved on the following roll call vote:

ROLL CALL:

**AYES: Mr. Manrodt, Mr. Kovic, Mr. Mullen, Mr. Urbanski, Mr. Schoellner,
Mr. Gilson, Mr. Stockton, Mr. Cefalo**

NAYES: None

ABSTAIN: None

Approval of Minutes:

Mr. Manrodt offered a motion to approve the January 12, 2006 Planning Board Meeting Minutes, seconded by Mr. Mullen and all were in favor.

Communications:

Mr. Stockton reminded the board members that they are required to take courses for board members.

Mr. Manrodt offered a motion to adjourn the meeting, seconded by Mr. Urbanski and all were in favor.

The Meeting adjourned at 9:53 P.M.

CAROLYN CUMMINS, Board Secretary