

**Borough of Highlands
Planning Board
Regular Meeting
April 11, 2013**

Meeting Location: Highlands Elementary School, 360 Navesink Ave, Highlands, NJ

Mr. Stockton called the meeting to order at 7:32 P.M.

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

Mr. Stockton read the following statement: As per requirement of Public Law 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 Asbury Park Press and the Two River Times. Notice has been posted on the public bulletin board.

ROLL CALL:

Present: Ms. Peterson, Mayor Nolan, Mr. Gallagher, Mr. Hill, Mr. Colby,
Mr. Stockton
Absent: Mr. Schoellner, Mr. Redmond
Also Present: Carolyn Cummins, Board Secretary
Jack Serpico, Esq., Board Attorney
Robert Keady, P.E. Board Engineer

**PB#2013-1 First Hartford Realty Corp.
Block 108 Lot 2.02 & 2.03 – Route 36 & Orchard Ave
Approval of Resolution**

Board Reviewed Resolution and requested changes to condition #10 and item #2 on first page.

Mr. Gallagher offered a motion to move on the adoption of the following Resolution:

**RESOLUTION APPROVING THE PRELIMINARY AND FINAL MAJOR SITE PLAN AND
VARIANCE APPLICATION OF FIRST HARTFORD REALTY CORPORATION FOR, BLOCK
108, LOTS 2.02 & 2.03 AND BLOCK 101, LOTS 17.02, 27 & 27.01**

WHEREAS, the applicant First Hartford Realty Corporation (hereinafter referred to as the “applicant”) is the contract purchaser of the above captioned lots, which lots are located in the HO Zone in the Borough of Highlands, New Jersey; and

WHEREAS, the applicant has applied for preliminary and final major site plan approval with variances for the purpose of constructing a CVS Pharmacy on the aforementioned lots in the Borough. The variances requested by the applicant are as follows:

1. Pursuant to Chapter 21-92.01.4 of the Borough Zoning Ordinance the applicant is required to have a front yard setback of 50 feet from the property boundaries. The subject lots contain frontages on 3 roadways; NJSH Route 36, Orchard Avenue and Ocean Avenue. The applicant proposes a setback of 23.9 feet from Ocean Avenue to the proposed drive- through canopy and a setback of approximately 42 feet from Ocean Avenue to the proposed building corner. Therefore the applicant has requested variances for the foregoing 2 front yard setbacks.
2. The applicant has proposed to construct 1 free standing illuminated sign on the subject property that will have a sign area of 44 square feet where 24 square feet is the maximum permitted by the applicable Borough Ordinance and a

**Borough of Highlands
Planning Board
Regular Meeting
April 11, 2013**

height of 15 feet where 10 feet is the maximum permitted by the Ordinance. Therefore the applicant has requested variances for the aforementioned sign square footage and height. The applicant also proposes additional signage at the premises that conforms to the applicable Zoning Ordinances; and

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

WHEREAS, the Board considered this application at a public hearing held on March 14, 2013; and

WHEREAS, the Board heard the testimony of Jeffrey Spalt, a licensed Civil Engineer and Planner in the State of New Jersey and Nickolas Victor Verderese, a licensed Civil Engineer in the State of New Jersey on behalf of the applicant. Mr. Spalt testified on the site details (his office prepared the site plans for the project) and Mr. Verderese was qualified as a traffic expert and he testified on the traffic effects of the project and the site circulation and parking plan as well as the ingress and egress details for the project; and

WHEREAS, the Board makes the following factual findings in connection with this application based on the testimony and plans and maps submitted on behalf of the applicant:

1. The proposed uses at the site are permitted pursuant to the applicable Borough Development and Zoning Ordinances.
2. The bulk variances requested by the applicant are due to the site dimensions and topography. Therefore the applicant has established the positive criteria for the requested variances. A hardship was established for the requested variances.
3. The variances requested will not have a substantial negative impact on the Borough Zoning Ordinance and Master Plan and will not have any substantial negative impact on the neighborhood in which the subject property is located. Therefore the applicant has established the negative criteria for the requested variances.
4. The applicant has substantially complied with the Borough site plan ordinance and has agreed to accept and comply with the conditions set forth below that are being imposed on the applicant; and

WHEREAS, the Board determined that the relief requested by the applicants can be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the zone plan and zoning ordinance of the Borough of Highlands; and

WHEREAS, the Board after considering the testimony and exhibits has found the proposed major site plan and variances to be acceptable with conditions.

NOW THEREFORE BE IT RESOLVED by the Planning Board of the Borough of Highlands that the application for preliminary and final major site plan approval and variances for the aforementioned lots is hereby approved contingent upon the following conditions being met;

1. All testimony, evidence and representations made by the applicant and its witnesses are incorporated herein.
2. Taxes, fees and escrow accounts shall be current.
3. The applicant shall comply with all of the outstanding comments and conditions if any set forth in the Board Engineer's letter dated March 8, 2013, which is incorporated herein in full by reference thereto.

**Borough of Highlands
Planning Board
Regular Meeting
April 11, 2013**

4. The applicant agrees to post performance bonds and/or inspection fees as determined by the Borough Engineer if any.
5. The applicant shall obtain the approval of the Monmouth County Planning Board for the project if required by law and the Freehold Soil and Conservation District.
6. The applicant shall obtain the approval of the Highlands Regional Sewerage Authority for the project if required by law.
7. The applicant shall obtain the approval of the NJDOT for the proposed driveway configuration, drainage and all proposed improvements within the jurisdiction of the NJDOT.
8. The applicant will submit a site lighting plan to the Board Engineer for his review and approval.
9. The applicant agrees that the site lights (with the exception of safety or security lights) will be illuminated no sooner than 1 hour before opening and extinguished 1 hour after closing.
10. The applicant will submit to the Board Engineer the results of the inspection of the current on-site subsurface drainage collection system for his review. Whether or not the current system is deficient or can be utilized for this project, the applicant will comply with the recommendations of the Board Engineer.
11. The applicant will submit amended site plans to the Board Engineer for his review and approval containing the following details:
 - a. Restriping of the rear loading area that will result in a better flow of the lanes leading to the drive-through facility.
 - b. Installation of sidewalks that will connect to the Quick Check site and to the bus-stop area located on Route 36 near the intersection with Orchard Avenue.
 - c. Installation of an internal sidewalk from Route 36 to the store entrance and the omission of 1 onsite parking space to accommodate this feature.
 - d. Installation of a sidewalk on Ocean Avenue that will extend along the entire site and the installation of a sidewalk on Orchard Avenue from the intersection of Ocean Avenue and Orchard Avenue to the proposed driveway on Orchard Avenue.
 - e. Installation of an internal sidewalk from Orchard Avenue at the driveway to the proposed CVS store.
12. Title 39 requirements are applicable to this project. The applicant shall make the appropriate request to enforce Title 39. Proof thereof shall be supplied to the Board Engineer.
13. The proposed retaining wall depicted on the plans submitted into evidence shall be located a distance of 6 feet from the property line.
14. The applicant shall install a guide rail in front of the proposed retaining wall and construct a 4 foot fence along the top of the retaining wall.

**Borough of Highlands
Planning Board
Regular Meeting
April 11, 2013**

Seconded by Ms. Peterson and adopted on the following roll call vote:

Ayes: Ms. Peterson, Mr. Gallagher, Mr. Hill, Mr. Colby, Mr. Stockton

Nays: None

Abstain:None

April 11, 2013.

Review Zoning Ordinance O-13-2

The Board reviewed Ordinance O-13-2.

Mr. Stockton stated that the Board Engineer had some good recommendations. Page 1 second whereas add Planning Board. Page 2 – last 2nd to last line make 3 feet or less.

Board had discussions.

Mayor Nolan offered the following Resolution and moved its adoption:

**RESOLUTION
BOROUGH OF HIGHLANDS PLANNING BOARD
FINDINGS OF REVIEW OF ORDINANCE O-13-02, AMENDING AND
SUPPLEMENTING CHAPTER 21 OF THE ZONING AND LAND USE ORDINANCES
OF THE BOROUGH OF HIGHLANDS**

WHEREAS, the Mayor and Council of the Borough of Highlands authorized the Planning Board to undertake a review of proposed Borough Ordinance O-13-02, which Ordinance will amend the Borough Land Use and Zoning Ordinances; and

WHEREAS, the Municipal Land Use Act, NJSA 40:55D-26 & 64, 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 amendments that is or are inconsistent with the Borough Master Plan and contain recommendations concerning those inconsistencies and any other matters the Board deems appropriate; and

WHEREAS, the Board conducted a review of the proposed amendments on April 11, 2013; and

WHEREAS, the Board received comments from Board Members, the Board Engineer and Attorney and various members of the public.

NOW, THEREFORE BE IT RESOLVED, by the Planning Board of the Borough of Highlands that Ordinance 0-13-02 is consistent with the Land Use and other elements of the Highlands Borough Master Plan and the Ordinance does advance the purposes of planning and zoning and advances the planning objectives of the Highlands Borough Master Plan.

BE IT FURTHER RESOLVED that in addition to the foregoing the Board hereby makes the following recommendations to the Mayor and Council:

1. The Board recommends that the phrase, “and Planning Board” be inserted after the phrase “Zoning Board of Adjustment”, in the third line of the second paragraph commencing with the word, “Whereas”.

**Borough of Highlands
Planning Board
Regular Meeting
April 11, 2013**

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. Gallagher and adopted on the following roll call vote:

ROLL CALL:

AYES: Ms. Peterson, Mayor Nolan, Mr. Gallagher, Mr. Hill, Mr. Colby,
Mr. Stockton

NAYES: None

ABSTAIN: None

Review of Zoning Ordinance O-13-5

The Board reviewed Ordinance O-13-5.

Mr. Keady explained the definition of grade.

Board had discussion regarding height limits and the definition of 50% damage definition and the appeal process.

**RESOLUTION
BOROUGH OF HIGHLANDS PLANNING BOARD
FINDINGS OF REVIEW OF ORDINANCE O-13-5, AMENDING AND
SUPPLEMENTING CHAPTER 21 OF THE ZONING AND LAND USE ORDINANCES
OF THE BOROUGH OF HIGHLANDS**

WHEREAS, the Mayor and Council of the Borough of Highlands authorized the Planning Board to undertake a review of proposed Borough Ordinance O-13-5, which Ordinance will amend the Borough Land Use and Zoning Ordinances; and

WHEREAS, the Municipal Land Use Act, NJSA 40:55D-26 & 64, 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 amendments that is or are inconsistent with the Borough Master Plan and contain recommendations concerning those inconsistencies and any other matters the Board deems appropriate; and

WHEREAS, the Board conducted a review of the proposed amendments on April 11, 2013; and

WHEREAS, the Board received comments from Board Members, the Board Engineer and Attorney and various members of the public.

NOW, THEREFORE BE IT RESOLVED, by the Planning Board of the Borough of Highlands that Ordinance 0-13-5 is consistent with the Land Use and other elements of the Highlands Borough Master Plan and the Ordinance does advance the purposes of planning and zoning and advances the planning objectives of the Highlands Borough Master Plan.

BE IT FURTHER RESOLVED that in addition to the foregoing the Board hereby makes the following recommendations to the Mayor and Council:

1. The definition of "Grade Plane", page 2, number 2, should have added at the end after the phrase, "Flood Hazard Area", the phrase, "plus one (1) foot."
2. Wherever the terms "substantial improvement" and "substantially improved" are used in Sections 8 and 9 (on pages 7 and 8), those terms should be defined as "the costs of repairs equaling 50% or more of the market value of the structure as determined by the Flood Plain Administrator". It is recommended that this definition be set forth in the definitions in Section 1 of the ordinance.

**Borough of Highlands
Planning Board
Regular Meeting
April 11, 2013**

3. At page 7, Section 9, item A.2, it is recommended that the letter “O” be omitted from the reference to the “AO” zone.
4. At page 7, Section 9, item A.2, it is recommended that the words “either” and “including basement” be omitted from the third line.
5. At page 7, Section 9, item A.2, it is recommended that the phrase “the depth number specified in feet” be omitted from line 4 and in its place add the phrase “the highest adjacent grade”.
6. At page 7, Section 9, item A.2, it is recommended that the word “depth” be omitted from the fifth line and the word “grade” be added in its place.
7. At page 8, Section 11, item B.1, it is recommended that the phrase “Flood Hazard Area design flood elevation” be added after the word “elevation” in the fifth line.
8. At page 8, Section 11, item B.1, it is recommended that the phrase “provided that the finished floor is at least one foot above” be added after the word “restrictive” in the sixth line.
9. At page 8, Section 11, item B.1, it is recommended that the last sentence of that section that is typed in bold face type and underlined be eliminated.

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. Gallagher and adopted on the following roll call vote:

ROLL CALL:

AYES: Ms. Peterson, Mayor Nolan, Mr. Gallagher, Mr. Hill, Mr. Colby
Mr. Stockton
NAYES: None
ABSTAIN: None

Approval of Minutes

Mr. Gallagher offered a motion to approve the March 14, 2013 Minutes. Seconded by Ms. Peterson and all were in favor.

Mr. Gallagher offered a motion to adjourn the meeting. Seconded by Mr. Colby and all were in favor.

The Meeting adjourned at 8:30 P.M.

Carolyn Cummins, Board Secretary