

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

Meeting Location: Highlands Elementary School, 360 Navesink Ave, Highlands, NJ 07732.

Mr. Stockton called the meeting to order at 7:31 P.M.

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

Mrs. Cummins made the following statement: As per requirement of P.L. 1975, Chapter 231 notice is hereby given that this is a Regular Meeting of 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: Mr. Schoellner, Mayor Nolan, Mr. Gallagher, Mr. Hill, Mr. Redmond,
Mr. Colby, Mr. Britton, Mr. Stockton, Mr. Danzeisen

Absent: Ms. Peterson, Mr. Korn

Also Present: Carolyn Cummins, Board Secretary
Jack Serpico, Esq., Board Attorney
Robert Keady, P.E., Board Engineer
Martin Truscott, P.P., Board Planner

**PB#2013-2 Tierney, Annemarie
Block 44 Lots 4 & 5 – 29 & 31 Shrewsbury Avenue
Approval of Resolution**

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

**RESOLUTION APPROVING THE LOT CONSOLIDATION AND VARIANCE
APPLICATION OF ANNEMARIE TIERNEY,
BLOCK 44, LOTS 4 & 5**

WHEREAS, the applicant referred to above is the owner of the above mentioned lots, commonly known as 29/31 Shrewsbury Avenue in the Borough of Highlands, which are located in the R-2.02 Zone; and

WHEREAS, the applicant has applied for a lot consolidation of the aforementioned lots and a confirmation of an existing setback variance for an accessory structure presently located on lot 4. The applicant proposes to demolish an existing structure and center the remaining residential structure and add an addition thereto in conformance with applicable zoning ordinance requirements. The balance of the relief requested is set forth in the application, testimony and maps entered into evidence at the public hearing of this matter that took place on June 13, 2013, 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 June 13, 2013; and

WHEREAS, the Board considered the testimony of the applicant, Annemarie Tierney in support of her application. The public was afforded an opportunity to cross examine the applicant and were given an opportunity to offer comments and evidence either in support of, or, in opposition to the application; and

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WHEREAS, the applicant submitted into evidence a Lot Consolidation Plan prepared by C.C. Widdis Surveying, LLC, dated 5-10-13, and designated as Exhibit, A-1; and

WHEREAS, the Board after considering the evidence and testimony presented by the applicant and the interested citizens has made the following findings of fact and conclusions based thereon:

1. The property is located in the R-2.02 Zone.
2. The applicant proposes to tear down the residential structure located at 31 Shrewsbury Avenue.
3. The existing 2 lots will be consolidated into 1 conforming lot.
4. The applicant proposes to center the remaining residential structure, add an addition and put parking space(s) under the structure in conformance with the applicable zoning ordinances.
5. The applicant will remove the existing shed structure shown on lot 5, or in the alternative move the shed in order to conform to the applicable ordinance setback requirements.
6. The existing frame shed shown on lot 4 will remain in accordance with a variance previously given to the applicant by the Zoning Board of Adjustment.
7. The applicant will remove the old driveway and install the new driveway in accordance with the plans and testimony of the applicant at the hearing.
8. The applicant will comply with any outstanding conditions set forth in the report of T & M Associates for this project, dated June 12, 2013, which report is incorporated herein in full by reference thereto.
9. The applicant will submit the Deed of Consolidation to the Board Engineer and Attorney for review and approval consistent with this Resolution and the decision of the Board.
10. Based on the foregoing the Board finds that the application is in conformance with the applicable Borough Zoning and Development Ordinances; and

WHEREAS, the Board after considering the testimony and exhibits has found the proposed lot consolidation and affirmation of the existing variance to be acceptable with conditions.

NOW THEREFORE BE IT RESOLVED by the Planning Board of the Borough of Highlands that the application for the consolidation of the aforementioned two lots into one and the affirmation of the existing setback variance for the accessory structure located on old lot 4 is approved contingent upon the following conditions being met;

1. All testimony, evidence and representations made by the applicant and his witnesses are incorporated herein.
2. Taxes, fees and escrow accounts shall be current.
3. The applicant will adhere to the findings of fact set forth above.
4. The applicant agrees to post performance bond and inspection fees if required by the Borough.
5. The applicant will contribute to the Borough sidewalk fund if required by the Borough Ordinances for the subject lot.
6. The applicant shall obtain the approval of all outside agencies as a condition precedent to this approval if applicable to this application.

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

Ayes: Mr. Schoellner, Mr. Gallagher, Mr. Hill, Mr. Redmond, Mr. Colby,
Mr. Britton, Mr. Danzeisen, Mr. Stockton
Nays: None
Abstain: None
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Review of Zoning Ordinance O-13-16

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Mr. Serpico read the State Statute instructions on the Planning Board to review a zoning ordinance amendment. Identify if the ordinance is consistent with the Master Plan, which he further explained.

Mr. Serpico swears in Martin Truscott, P.P. of T & M Associates.

Mr. Truscott discussed Zoning Ordinance O-13-16 and pointed out the changes as listed below:

**ORDINANCE #O-13-16
AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 21 OF THE
REVISED GENERAL CODE OF THE BOROUGH OF HIGHLANDS ENTITLED
“ZONING” TO MODIFY THE REQUIREMENTS OF THE MH MOBILE HOME
RESIDENCE DISTRICT, AND TO FURTHER ALLOW HIGH RISE MULTI-FAMILY
DEVELOPMENTS IN THE MH ZONE AS A CONDITIONAL USE, AND TO
ESTABLISH REGULATIONS PERTAINING THERETO.**

WHEREAS, the governing body of the Borough of Highlands finds that it is in the best interest of the municipality to amend Section 21 of the Revised General Ordinances of the Borough as outlined below.

NOW, THEREFORE, BE IT ORDAINED that Section 21 of the revised general ordinances of the Borough of Highlands be and hereby is amended in following part only:

SECTION ONE: § 21-89 (MH Mobile Home Residence) is hereby amended and supplemented as follows: (Additions noted by underline. Deletions noted by strikeover)

1. Permitted Accessory Uses:

Utility Buildings incidental to residential use.

Clubhouses, swimming pools and other recreational facilities and structures for the exclusive use of the residents.

Tennis Courts.

Other accessory uses and structures incidental to the permitted principal and conditional uses, including but not limited to structured parking for multi-family residences only.

2. Conditional Uses:

Satellite Dish Antennas

High Rise Multi-family dwellings, and structured parking accessory or appurtenant thereto subject to the requirements of §21-97.M. High rise multifamily developments shall be defined as a building of eight (8) stories or more.

SECTION TWO: §21-97 Conditional Uses is hereby supplemented to add new section M entitled High Rise Multifamily Developments as follows:

M. High Rise Multi-Family Developments in the MH Zone

High Rise Multi-family developments in the MH Zone are subject to RSIS standards, and shall not be required to meet the requirements of Schedule 1 where said requirements are inconsistent with either RSIS or the follow requirements.

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1. Density shall not exceed 32 dwelling units per acre
2. Minimum lot size: 10 acres.
3. Minimum front yard setback: 100 feet to a principal building or structured parking facility
4. Minimum side yard setback: 60 feet to a principal building or structured parking facility
5. Minimum rear yard setback: 60 feet to a principal building or structured parking facility
6. Minimum Buffer area along any property line: 25 feet. Driveways and sidewalks shall be permitted to cross buffer areas to provide access to streets and adjacent properties. Pedestrian paths shall be permitted within buffer areas. Development identification signs and gatehouses shall be permitted in buffer areas within 75 feet of driveway entrances providing access to a public street
7. Maximum building coverage: 25 percent
8. Maximum lot coverage: 50 percent
9. Maximum FAR: 1.50. The floor area of structured parking facilities underneath and adjacent to residential buildings shall not be considered as floor area for purposes of the Floor Area Ratio (FAR).
10. Maximum Height:
 - a. Residential buildings: 120 feet, not including the height of attached parking structures. The height of residential buildings shall be measured from the floor of the building lobby or the first level that contains dwellings whichever is lower. Elevator shaft may exceed this limitation by no more than 15 feet.
 - b. Structured parking: 45 feet. Parking structures may be located underneath and/or adjacent to residential buildings.
 - c. Recreational facilities and other accessory structure: 25 feet.
11. Accessory Structures:
 - a. Recreational facilities. Recreational facilities shall be provided for the use of residents of the high rise multi-family development. Such facilities shall be setback a minimum of 50 feet from any property line.
 - b. Signs. Development identification signs shall be permitted adjacent to the main entrance of a high rise multi-family development. Such signs shall either consist of a monument sign or be mounted on a freestanding wall. The maximum number of signs shall be two faces on a monument sign or two wall-mounted signs. The maximum area per sign face shall not exceed 100 square feet. A development identification sign shall be setback a minimum of 5 feet from any property line.
 - c. A gatehouse or similar structure shall be permitted within 75 feet of driveway entrances providing access to a public street.

SECTION THREE: SEVERABILITY. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance, which shall otherwise remain in full force and effect.

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SECTION FOUR: REPEALER. All ordinances or parts of ordinances inconsistent herewith are hereby repealed to the extent of such inconsistency.

SECTION FIVE: EFFECTIVE DATE. This Ordinance shall take effect after final passage as provided by law.

The Board had discussions with Mr. Truscott about the ordinance.

Mr. Britton concerned with residents down below slope. He stated that we need to address that kind of issue.

Mr. Colby thinks it would be addressed as application for development comes forward.

Mr. Britton stated that we need to address that now.

Mr. Colby stated it's hard to address that without a site plan.

Discussions continued.

Mr. Gallagher stated that he can't see up approving any application without reports.

Mayor Nolan stated that the Eastpointe High Rise held up and that engineering today is much better.

Mr. Stockton stated that a buffer for front of slope may need to change due to expert reports.

Mayor Nolan stated to make it a major concern.

Board discussed proposed ordinance.

Public Questions

Peter Mullen of 11 Marine Place asked who wrote the ordinance.

Mr. Truscott said he did.

Mr. Mullen asked Mr. Truscott what he used for guidance on this ordinance.

Mr. Truscott explained that he was directed by the Governing Body to draft the ordinance.

Mr. Mullen asked how different this ordinance is from the former six story ordinance that was overturned.

Mr. Truscott stated that its increased density, it's lower in height and there are no changes in setbacks which he further explained.

Mr. Mullen – happy to hear you say it's not consistent with the Master Plan. He then questioned Mr. Truscott further.

Mr. Mullen then asked about spot zoning.

Mr. Serpico – irrelevant issue, spot zoning

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Mr. Truscott stated he is not the person to address spot zoning, should be addressed by a Court.

Mr. Mullen stated that this ordinance only benefits one person, one property owner.

Mr. Truscott explained that incorporated with the property Eastpointe Condos. He then stated that spot zoning deal with as a comprehensive plan.

Mr. Mullen asked if there was any thought of changing zone of this site.

Mr. Truscott stated that it was a policy of the Council.

Mr. Mullen asked what are the standards of considering consistency with the Master Plan.

Mr. Truscott stated that reviewing use and density and discussion in Master Plan on how this should evolve, which he further explained.

Mr. Mullen continued to question Mr. Truscott about consistency with the Master Plan. He also stated that he does not think the ridge setbacks addresses high rise. He stated our ordinance did not anticipate high rise.

Mr. Colby – wouldn't laws of State cover that?

Mr. Mullen – no, it's the town ordinance.

Mr., Gallagher asked to address some of Mr. Mullen's questions with regard to goals and objectives.

Mr. Stockton referred to the Master Plan.

Mr. Mullen spoke about language in plan about the Shadow Lawn area.

Don Manrodt of 268 Bayside Drive asked Mr. Truscott if slope area is part of the lot area.

Mr. Truscott – yes.

Mr. Manrdrot stated that the hill won't hold 10 story building. He also wanted to know why the urge to push this ordinance through. He then spoke of problems with the Eastpointe high rise building.

Mr. Colby – wouldn't development make cleanup of contamination of site.

Mr. Keady – the DEP would be one to dictate that.

Mr. Manrodt stated that he was concerned with setback of high rise, it needs 50 feet. He also stated that the hill is going down.

Mr. Gallagher stated that we may want to bring setback from ridge. What about a ratio of height and ridge setback. We need scientific backup.

Mayor Nolan – we can at least recommend a minimum.

Mr. Serpico stated that as a condition one recommendation is consistent with public comments to come up with engineering guidelines for ridge level scale setbacks.

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Discussions continued.

Mr. Manrodt asked why 10 story high rise.

Mr. Serpico stated that he would have to ask the Governing Body not the Planning Board.

Kim Skorka of 315 Shore Drive stated that these changes are so specific and she wanted to know if anyone had been approached by a developer.

Mr. Stockton as for the board, as far as we know no site plan submitted.

Ms. Skorka asked if anyone spoke with the property owner.

Mayor Nolan stated that he hasn't spoken with anyone. This ordinance is a part of a huge recovery plan.

Ms. Skorka asked if they would put a requirement in to have developer do slope stabilization.

Pauline Jennings of 27 Ralph Street asked if this was because you didn't want to lose downtown businesses.

Arnie Fuog of 50 Valley Street asked what Marty Truscott was.

Marty Truscott explained that he is a Licensed Professional Planner.

Mr. Fuog asked for the definition of a midrise.

Mr. Truscott explained that it's four to eight stories' and this ordinance is to allow higher.

Mr. Fuog asked what is height of trees verse buildings.

Mr. Truscott stated that he could not answer that.

Mr. Fuog then went on to speak about property maintenance issues.

Mr. Serpico stated that this discussion was not appropriate.

Mellissa Pederson of 17 Bay Street stated that no other place in New Jersey allows this. How do we come up with appropriate data? She is concerned with removal of trees and a landslide.

Mr. Truscott explained stated that ridge line setbacks can be added.

Mr. Keady explained that slope plan engineering would be a site plan issue.

John McAleer of 52 Barberie Ave stated that six to eight story's won't be permitted with new ordinance.

Mr. Truscott responded.

John McAleer – but this ordinance would allow greater than eight. He then asked what benefit is this to the town.

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Mr. Truscott explained it provide regulations of development.

Mr. McAleer asked what does the town lose with this ordinance.

Mr. Serpico informed him that he needed to ask the Council.

Mr. Manrodt questioned parking garage height.

Mr. Stockton explained it defines height as feet.

Mellissa Pederson stated that according to the ordinance the 120 feet does not include height of parking garage.

Mr. Serpico stated that she had made a good point and that we can clarify it.

Pauline Jennings of 27 Ralph Street stated that this ordinance does not negate the original if approved could someone build mid and high rise?

Mr. Truscott explained that the borough is not removing any uses.

Pauline Jennings asked if the plan was to replace mid-rise with high rise.

Mayor Nolan explained no.

Board has discussion.

Melissa McAleer of 52 Barberie Ave questioned purpose of ordinance.

Mayor Nolan explained that we did put limit of 120 feet and that we could reword the ordinance it's not including parking.

Melissa McAleer asked what the maximum number of units was.

Mr. Muller stated it was 384.

Discussions continued.

Mellissa McAleer asked Mr. Serpico to define spot zoning.

Mr. Serpico stated that we don't make that determination. He then read definition from the Cox book. He stated he is not going to give an opinion if this is spot zoning but that he thought it was a valid point to bring it up.

Kim Skorka questioned multiple buildings and uses on site.

Mr. Mullen asked Mr. Serpico if he would advise board to keep from spot zoning.

Mr. Serpico stated his role is to get the board through the process. He stated that the Planning Board could make recommendation of possible spot zoning.

Mr. Mullen asked if a developer could build 25% of lot area.

Mr. Truscott stated that there was nothing in the ordinance to preclude that.

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There were no further questions from the public. The public hearing was then closed.

Public Comments

Arnold Fuog of 50 Valley Street was sworn in. He asked why going higher than mid-rise and then asked the Planning Board to consider going back to what the people wanted.

Mr. Mullen of 11 Marine Place was sworn in and stated that the Master Plan is an important document. It has hopes and fears of the town. The proposed ordinance is not consistent with the Master Plan.

Pauline Jennings of 27 Ralph Street was sworn in. She wanted to know if the board had a copy of the Master Plan.

Board Member – it's on the borough's website.

Don Manrodt of 268 Bayside Drive was sworn in and asked why the board wants this change. He stated that ordinance should not be pushed through. He then spoke against the ordinance.

John McAleer of 52 Barberie Ave was sworn in. He asked the Planning Board to consider that the ordinance is not conforming to the Master Plan.

Carla Cefalo-Braswell of 62 Gravelly Point Road was sworn in. She has respect for the Master Plan but we need to consider a lot of things post Sandy.

Mellissa Pederson of 17 Bay Street implored the board to be reminded this is not in the master plan and that the public opposed it. She asked the board to hold until have all the facts rather than make a rushed decision.

Mellissa McAleer stated that the rationale is ratable but also need to balance. She spoke against the ordinance.

There were no further public comments.

Mr. Colby offered a motion to close the public hearing. Seconded by Mr. Britton and all were in favor.

The Board discussed the ordinance and the procedure for reviewing the ordinance.

Mayor Nolan explained that there is no Council meeting the first week of August so the Planning Board will meet again in August before the August Council Meeting.

Mr. Stockton reviewed the board recommendations as discussed..

1. Steep Slope - if any additional buffer setback requirements.
2. Text - measurement of building height item 10A.
3. Master Plan – it's not consistent entirely because of high rise and density
4. Eastpointe has 33 units per acre and here its 32 units per acre.
5. Look at potential for spot zoning.
6. Inconsistent with Land Use Element of the Master Plan but consistent with the Economic Plan
7. It does not have to be 10 stories, that the building could be less.

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8. Steep Slope Study building height and setbacks.

Board had discussion.

Mr. Colby offered a motion to approve the comments as discussed. Seconded by Mr. Redmond and approved on the following roll call vote:

ROLL CALL:

AYES: Mr. Schoellner, Mayor Nolan, Mr. Gallagher, Mr. Hill, Mr. Redmond,
Mr. Colby, Mr. Britton, Mr. Danzeisen, Mr. Stockton

NAYES: None

ABSTAIN: None

Mr. Serpico will prepare a resolution for the next meeting.

The Board directed the Board Secretary to request for an extension of time to have written comments submitted to Council.

Approval of Minutes;

Mr. Gallagher offered a motion to approve the June 13th minutes. Seconded by Mr. Schoellner and approved on the following roll call vote:

ROLL CALL:

AYES: Mr. Schoellner, Mr. Gallagher, Mr. Hill, Mr. Redmond, Mr. Colby,
Mr. Britton, Mr. Danzeisen, Mr. Stockton

NAYES: None

ABSTAIN: None

Mayor Nolan offered a motion to adjourn the meeting. Seconded by Mr. Hill and all were in favor.

The meeting adjourned at 9:36 P.M.

Carolyn Cummins, Board Secretary