

Borough of Highlands
Planning Board
Regular Meeting
November 14, 2013

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

Mr. Stockton called the meeting to order at 7:33

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 the Borough of Highlands Zoning Board of Adjustment 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. Gallagher, Mr. Hill, Mr. Redmond, Mr. Colby, Mr. Britton, Mr. Stockton, Mr. Danzeisen, Mr. Korn, Mr. Kovic

ABSENT: Mr. Schoellner

LATE ARRIVAL: Mayor Nolan arrived at 7:36 p.m.

ALSO PRESENT: Carolyn Cummins, Board Secretary
Jack Serpico, Esq., Board Attorney
Robert Keady, P.E., Board Engineer
Martin Truscott, P.P.

Executive Session Resolution

Mr. Gallagher offered the following Resolution and moved its adoption:

**RESOLUTION
EXECUTIVE SESSION**

BE IT RESOLVED that the following portion of this meeting dealing with the following generally described matters shall not be open to the public:

- 1.Litigation: First Hartford**
- 2.Contract:**
- 3.Real Estate:**
- 4. Personnel Matters:**
- 5. Attorney-Client Privilege:**

BE IT FURTHER RESOLVED that it is anticipated that the matters to be considered in private may be disclosed to the public at a later date when the need for privacy no longer exists; and

BE IT FURTHER RESOLVED that no portion of this meeting shall be electronically recorded unless otherwise stated; and

BE IT FURTHER RESOLVED that the private consideration is deemed required and is permitted because of the following noted exceptions set forth in the Act:

1. Any matter which, by express provision of Federal Law, State statute or rule of court shall be rendered confidential or excluded from public discussion. Rendered confidential by Federal law or that if disclosed would impair receipt of Federal funds.
2. Any matter in which the release of information would impair a right to receive funds from the federal government.

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3. Any material the disclosure of which constitutes an unwarranted invasion of individual privacy such as any records, data, reports, recommendations, or other personal material of any educational, training, social service, medical, health, custodial, child protection, rehabilitation, legal defense, welfare, housing, relocation, insurance and similar program or institution operated by a public body pertaining to any specific individual admitted to or served by such institution or program, including but not limited to information relative to the individual's personal and family circumstances, and any material pertaining to admission, discharge, treatment, progress or condition of any individual, unless the individual concerned (or, in the case of a minor or incompetent, his guardian) shall request in writing that the same be disclosed publicly.
4. Any collective bargaining agreement, or the terms and the conditions of which are proposed for inclusion in any collecting bargaining agreement, including the negotiation of terms and conditions with employees or representatives of employees of the public body.
5. Any matter involving the purchase lease or acquisition of real property with public funds, the setting of bank rates or investments of public funds where it could adversely affect the public interest if discussion of such matters were disclosed.
6. Any tactics and techniques utilized in protecting the safety and property of the public provided that their disclosure could impair such protection. Any investigations of violations or possible violations of law
7. **Any pending or anticipated litigation or contract negotiation in which the public body is or may become a party. Any matters falling within the attorney-client privilege, to the extent that confidentiality is required in order for the attorney to exercise his ethical duties as a lawyer.**
8. Any matter involving the employment, appointment, termination of employment, terms and conditions of employment, evaluation of the performance, promotion or disciplining of any specific prospective public officer or employee or current public officer or employee employed or appointed by the public body, unless all individual employees or appointees whose rights could be adversely affected request in writing that such matter or matters be discussed at a public meeting. Subject to the balancing of the public's interest and the employee's privacy rights under South Jersey Publishing Co. v. New Jersey Expressway Authority, 124, NJ 478 (1991).
9. Any deliberation of a public body occurring after a public hearing that may result in the imposition of a specific civil penalty upon the responding party or the suspension or loss of a license or permit belonging to the responding party as a result of an act of omission for which the responding party bears responsibility.

BE IT FURTHER RESOLVED that action may be taken after the executive session.

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

ROLL CALL:

AYES: Mr. Gallagher, Mr. Hill, Mr. Redmond, Mr. Colby, Mr. Britton,
Mr. Danzeisen, Mr. Korn, Mr. Kovic, Mr. Stockton
NAYES: None
ABSENT: Mayor Nolan
ABSTAIN: None

The Board called the Regular Meeting back to order at 7:52 P.M.

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ROLL CALL:

Present: Mayor Nolan, Mr. Gallagher, Mr. Hill, Mr. Redmond, Mr. Colby,
Mr. Britton, Mr. Danzeisen, Mr. Stockton, Mr. Korn, Mr. Kovic

ABSENT: Mr. Schoellner

PB#2013-4

**First Hartford Realty Corp.
Block 108 Lots 2.02 & 2.03
Route 36 & Orchard Avenue**

The Board reviewed the application and found it to be complete.

Mayor Nolan offered a motion to schedule this matter for a public hearing at the December 12th meeting. Seconded by Mr. Gallagher and approved on the following roll call vote:

ROLL CALL:

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

NAYES: None

ABSTAIN: None

PB#2013-3 Navesink Capital Application Review & Public Hearing

Present: Martin McGann, Esq.
Jim Bollerman, Principal
Lisa Norma, CSR
Sean Savage, P.E.

Mr. Serpico stated that he reviewed the public notices and receipts and that the Borough has jurisdiction.

Mr. McGann explained the former use of the mobile park had 54 units and is now vacant property. Adjacent to Oyster Restaurant is 94 boat slips. The proposed use is 49 townhome units, 129 marina slips, restaurant use and accessory parking.

Mr. Stockton explained the hearing process to the public.

Mr. Serpico informed the public that each witness is subject to cross examination by the public.

Mr. Bollerman was sworn in.

Mr. Bollerman stated the following:

1. He is the owner of Navesink Capital Partners.
2. He is seeking to redevelop two properties damaged by Superstorm Sandy
3. Discussed location of properties and referred to a large aerial dated 11/14/12 (A-1)
A-1 Large aerial dated 11/14/13
4. Two properties are Sandy Hook Bay Marina and Paradise Park
5. He described property lines
6. Lost a number of buildings on marina property during Sandy
7. There was approximately 7 feet of water
A-2 Graphic site plan dated 10/23/13
8. With regard to A-2, the property is irregular in shape
9. Property governed by Federal, State, County, Municipal

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10. The site plan represents compliance with regard to Federal, State, County, Municipal
11. Development concept incorporated into plan, spoke about views to water, described marina property view front entrance as described in A-3
A-3 Marina building dated 11/14/13
12. Spoke about design intent
13. Spoke of the common theme of architecture for entire site
14. Described landscaping plan
15. Described public access along boardwalk walkway, across front of residential development
16. Spoke of orientation of building to maximize views
17. There are two major components, residential and marina
18. Wants to have the best marina in NJ
19. Proposal to expand marina and add 35 units
20. Discussed expanding marina basin
21. Further described marina with regard to pool, marina office, marine shop, bathrooms, winter boat storage. Office space in lighthouse.
22. Restaurant proposed 4500 square feet, 40-50 outdoor seats and a tiki bar
23. Explained the phasing of project
24. He purchased marina in 2004 and has operated since, 46 slips when started, 93 slips at the time of the storm
25. Discussed parking issues
26. Discussed the connection between the marina and restaurant units.
27. Further discussed restaurant units, private road
28. Marina and restaurant garbage was private collection and will stay private
29. Discussed impact on schools and target unit purchasers
30. Boat slips available to the public
31. No boat launch available to public
32. Restaurant will run seven days in the summer and scale back in the winter
33. Approximately 12 to 15 employees
34. Marina employees – 1 part-time 1 other
35. Marina shop not open to the public
36. 15 slips for transient use/30 to 40 feet
37. He is working on annexation of a piece of land with the borough of Atlantic Highlands

Mr. McGann stated that there is a small strip of land between the two municipalities and that there is an open dialogue with Atlantic Highlands.

Mr. Bollerman continued his testimony as follows:

38. 20% of restaurant will come from the boating community, which supports shared parking
39. There was an apartment on top of the Original Oyster restaurant. New restaurant will be one story.
40. The bulkheads are brand new
41. There will not be fuel sold at marina.
42. Prior to Superstorm Sandy had 54 trailer pads.
43. Regarding ferry terminal no more.
44. The retaining walls vary in height
45. Needs County approval to access County park from site
46. Entrance on Willow for marina and restaurant
47. Intent to use Shore Drive for residential entrance
48. Pool use for residents and boat slip customers only
49. Units will be two to three bedrooms.
50. Regarding office space – 1 is for marina office, 2nd office on 3rd floor anticipate yacht broker
51. Entire site will be raised to FEMA elevations

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52. Will make formal application after municipal process

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

Carol Honke – questioned the height of the structures.

Mr. Bollerman deferred to the Engineer, but stated that the grade will be raised.

Ms. Honke questioned the weight of the structures on the sand.

Mr. Bollerman stated there will be people hired to do soil borings.

Nick Casale – 12 Locust St – asked if Locust will be a dead end.

Mr. Bollerman stated yes.

Nick Casale asked if there are enough parking spaces.

Mr. McGann there will be testing provided by a traffic engineer

Mr. Zagericki – Bayside Dr. questioned regarding upgrade marina traffic.

Mr. Bollerman deferred to traffic engineer.

Lou Longo – 15 Locust St – asked if he will lose water view.

Carol Schimeneck – Shore Dr - questioned number of office spaces. Also questioned tiki bar noise and if there will be a bar on the deck.

Mr. Bollerman stated there is no deck bar on top of restaurant

Mr. McGann stated that there are noise ordinances that must be complied with.

Carol Schimeneck suggested moving location of tiki bar.

Mr. Bollerman described the location of prior tiki bar and proposed tiki bar.

Cathy Tarpey – 365 Shore Dr. – questioned the public access – asked if there is a statute of limitations.

Mr. McGann stated that it is a DEP regulation.

Kathy Eisner – Bayside Dr. – questioned ownership.

Peter Mullen – 11 Marine Place – questioned public access.

Mr. Bollerman - would encourage access at the bottom of site.

Mr. Mullen asked about the bulkhead.

Mr. Bollerman stated that they encourage access at bottom of site. He then described the subdivision lines.

Ms. Eisner stated that the zoning was changed a year ago – is this not permitted?

Mr. McGann stated that is untrue.

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Cathy Creutzeurg – 165 Bayside Dr. – asked about double the density for this parcel.

Mr. Stockton stated its 9.48 units per acre and not more than 14 units.

Mr. Bollerman stated we could put more density but chose not to.

Ms. Honke stated that it is a well thought out plan but not happy with the height.

Mr. Longo stated that the soil is not stable enough for the height of the structures.

Mr. McGann stated they will provide soil boring results.

Ms. Creutzeurg asked about the Atlantic Highlands property.

Mr. McGann stated that we do not need to acquire it.

MR. Serpico explained the approval process.

End Public Questions

The Board called for a break at 9:21 p.m.

9:32 called to order.

Mr. Gallagher questioned A-1.

Mr. Sean Savage was sworn in and stated the following:

1. He is an engineer for 16 years and licensed in the State of NJ.
2. Employed at MATRIX New World Engineering.
3. The site plan was made under his directives.
4. Gave an overview of the site.
 - A-4 Variance Application dated 10/30/13
5. Prepared A-1
6. With regard to A-4, site plan and subdivision application into 2 lots.
7. 5 acre lot-residential/6 acre lot marina and restaurant.
8. 49 residential units. Restaurant and boat slips will shape area.
9. Access to residents will be off Shore Drive.
10. Will provide truck turning plan if required.
11. Described the road and driveway of project.
12. 24 feet drive isles in marina.
13. The loading zone provided in front of office spots.
14. Described parking requirements for residential.
15. Described the common area parking in residential area.
16. Discussed parking requirements.
17. Retaining walls around site, with fill from dredging.
18. The site will be elevated out of flood zone.
19. In V.E. zone, not proposing any structures in that zone.
20. Submitting to DEP the design based on conversations with DEP.
21. Portion of marina parking lot, under elevation, permitted by DEP.
22. Discussed retaining walls and fencing.
23. Discussed variances.
24. Discussed waiver requests.
25. Described sidewalks
26. Described area need circle
27. Described grading.
28. Compliance and meeting DEP storm water requirements.

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- 29. Described stormwater plan – no negative impact.
- 30. Referred to A-5 to describe stormwater run-off along Locust Street properties.
- 31. Discussed utilities.

Mr. McGann - need to go through engineer letter.

Motion to carry the matter to December 12th, 2013 with no further public notice

Approval of Minutes

Mr. Gallagher offered a motion to approve the August Planning Board Minutes. Seconded by Mr. Colby and approved on the following roll call vote:

ROLL CALL:

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

NAYES: None

ABSTAIN: None

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Review of Zoning Ordinance O-13-30 RE: Nonconforming Uses

The Planning Board reviewed Zoning Ordinance O-13-30 and adopted the following Resolution:

Mr. Gallagher offered the following Resolution and moved its adoption:

**RESOLUTION
BOROUGH OF HIGHLANDS PLANNING BOARD
FINDINGS OF REVIEW OF ORDINANCE O-13-30
ZONING ORDINANCE AMENDMENTS**

WHEREAS, the Mayor and Council of the Borough of Highlands authorized the Planning Board to undertake a review of proposed Borough Ordinance O-13-30, which Ordinance will amend the Borough Zoning Ordinance; and

WHEREAS, the Municipal Land Use Act, N.J.S.A. 40:55D-26 & 64, requires that the Planning Board prepared 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 November 14, 2013; and

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

NOW, THEREFORE BE IT RESOLVED, by the Planning Board of the Borough of Highlands that it hereby makes the following findings and recommendations with regard to the proposed Ordinance to the Mayor and Council:

a. The Board finds that the proposed amendments are consistent with the Borough Master Plan.

b. The Board hereby makes the following recommendations to the Governing Body:
Board in favor of the contents of the proposed ordinance

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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 Mayor Nolan and adopted on the following roll call vote:

ROLL CALL:

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

NAYES: None

ABSTAIN: Mr. Colby

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

The Meeting adjourned at 10:49 p.m.

Carolyn Cummins, Board Secretary