

Borough of Highlands
Planning Board
Regular Meeting
April 10, 2014

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

Mr. Stockton called the meeting to order at 7:44 P.m.

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

ROLL CALL:

Present: Mr. Gallagher, Mr. Hill, Mr. Colby, Mr. Britton, Mr. Danzeisen, Mr. Stockton,
Mr. Korn

Absent: Mayor Nolan, Mr. Redmond, Mr. Kovic

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

PB#2014-1 Scanlon, Eileen
Block 56 Lot 15, 22-24 Fifth Street
Hearing on New Business

Present: Eileen Scanlon
Catherine Franco, A.I.A., P.P

Ms. Franco stated that they submitted a zoning permit and are waiting for a new denial.

Mr. Serpico explained the application was denied by the Zoning Officer but the application before the board is not the same application that was reviewed by the Zoning Officer. This needs to go back to the Zoning Officer then we will find out where we stand. The Board should not hear the application and carry public hearing. Also the public notice was deficient so the board does not have jurisdiction to proceed. The applicant must renote and list all of the variances being requested.

Eileen Scanlon stated that she never said she wanted to do an addition.

Mr. Serpico informed the applicant to take it up with the Zoning Officer.

Ms. Franco stated that the applicant waives any time restraints for the board to take action.

Mr. Gallagher offered a motion to dismiss application but it failed for a lack of a second.

Mr. Colby offered a motion to adjourn the application subject to renote, seconded by Mr. Hill and approved on the following roll call vote:

ROLL CALL:

AYES: Mr. Hill, Mr. Colby, Mr. Britton, Mr. Danzeisen, Mr. Stockton, Mr. Korn

NAYES: Mr. Gallagher

ABSTAIN: None

PB#2014-2 Birchwood Inc.
Block 66 Lot 11 – 60 Fifth Street
Hearing on New Business

Present: Martin McGann, Esq.

Conflicted: Mr. Colby stepped down

Mr. Serpico stated that he has reviewed the public notice and finds it proper therefore the Board has jurisdiction to precede.

Mr. McGann stated that the WT2 Zone has a subsection of R-2 zone bungalow colony. The review of the plans is that three units at 20 feet and was higher, will lower height of first structure of 21 ½ feet.

The following exhibits were marked into evidence this evening:

Borough of Highlands
Planning Board
Regular Meeting
April 10, 2014

A-1: Revised Plan dated 4/9/2014;

A-2: Dated 4/10/2014 shows existing structure on right and overlay of proposed;

A-3: Photos of front structure which shows living space on third floor of front structure.
Tax Records show 4 buildings on site.

A-4: Four Property records.

A-5: Proposed Plan

A-6: Photo of street view

Mr. McGann explained variances for minimum front yard and that they provided average at 8 ½ feet where 20 feet is required. Side yard 6 feet required and 0/3.75 ft. existing; distance between units 6 ft. proposed and 8 feet required. 4,000 required and 2800 existing, lot size, lot width.

Paul Lawrence, AIA was sworn in and stated the following during his testimony and response to questions from the board:

1. He gave his professional background and education to the board.
2. His firm prepared the architectural and elevations marked as Exhibit A-1.
3. The only change is the height.
4. The proposed plan shows units A,B,C – Exhibit A-5 which is sheet 2 of 2 dated 4/10/2014 and it has the elevations and floor plan of units A,B,C.
5. Size of units 19 but 43 all three units and all raised on pilings.
6. New A-1 pushed house height down and tightened up space underneath which he further explained.
7. Unit A is two stories.
8. Only required to have single means of egress in residential units.
9. Parking under first house.
10. 19 feet wide house, trying to clean take on traditional form.
11. Shutters, siding could be done.
12. Existing is storm damaged and is just so damaged.
13. More than 50% damaged and must comply with flood requirements.
14. Base flood elevation is 11 feet.
15. Applicant seeking "c" variance for height of front unit.
16. Size of property is a hardship.
17. The back unit is 19 feet wide by 34 feet deep, 646 square feet.

Mr. McGann spoke of size and setbacks and stated that if we comply with 20 foot setback it would push it back into the 2nd structure.

Mr. Gallagher wants to know why not complying with 20 foot front yard setback.

Mr. McGann explained why not.

Mr. Gallagher continued to discuss justification for the 20 foot front yard setback.

Mr. McGann is not opposed to it and could talk to client.

Paul Lawrence questioned if they even need a variance because the average front yard is 8.5 feet.

Public Questions

Chris Francy of 36 Fifth Street questioned stairs on unit B and how one would get to parking for units c and d.

Pete Nelson of 68 Fifth Street asked if a fire truck could get back there.

Paul Lawrence – yes

Mr. Stockton requested that the applicant obtain approval from the fire department.

Unidentified woman – expressed her concerns with parking issues.

Borough of Highlands
Planning Board
Regular Meeting
April 10, 2014

Mr. McGann stated that there would be 4 spaces under first house and currently there is no onsite parking.

Unidentified Woman asked if there would be public beach access on site.

Mr. Keady stated there is a parking variance required because it's one spot per unit.

Chris Francy asked if there were any restriction on year round use verses seasonal.

Mr. McGann stated that the ordinance does not have restrictions.

Chris Francy asked Mr. Keady to read definition of bungalow colony.

Mr. Keady read definition.

Patty Kettero of 2 Private Road asked about public parking.

Public Questions Closed.

Kevin Birch was sworn in and stated the following during his testimony and response to questions from the board:

1. He is the owner of the property – Birchwood.
2. He first visited site one and a half years ago before storm.
3. The front, second and third units were occupied when he first visited site but the fourth unit was not occupied.
4. In terms of heat the first, second and third house had electric heat and all units have water and sewer.
5. Last house small, it had a sink, stove and bathroom and no one was living there and there was no heat source.
6. Since he purchased property the front house is too far gone from storm and he was told to raise the units.
7. Four parking spaces under first unit and currently there is no onsite parking.
8. There is a municipal parking lot a block away.
9. Any consideration for pushing house back may trigger a CAFRA Permit.
10. He described proposed exterior paints.
11. He will rent the units.
12. He stated parking is one unit per house and its stacked parking.

Public Questions.

Chris Francy questioned if stove and sink and toilette in the units.

Unidentified Woman asked if he ever thought of two structures verses four.

Kevin Birchwood – no, basically that's why he bought the property.

Pat of 2 Private Road questioned location of public parking lot.

Kevin Birchwood explained.

Public Questions Closed.

Jason Marciano, P.P., P.E., was sworn in and stated the following during his testimony and response to questions from the board:

1. He gave educational and professional background to board.
2. A-2 identified it and stated it was prepared by his firm.
3. The property is very narrow and long.
4. Lot is 25 feet wide by 350 in length and that the lot varies in elevation.
5. Back structure is A-12 elevation zone and the front unit is in A-11 flood zone.
6. If they were to move buildings back its 150 feet from mean high water line

Borough of Highlands
Planning Board
Regular Meeting
April 10, 2014

7. He is not familiar with any proposed dunes.
8. If move back house 5 feet would be in line with neighbor, no objection.

Mr. Gallagher discussed moving structure.

Mr. Keady explained average setbacks may not require a variance for front yard.

Mr. Marciano continued testimony as follows:

9. Will provide documents for flood zone lines.
10. The units in compliance even if in the 12 Zone.
11. Will plot flood lines on the plan.
12. Did study of front yard setbacks for same block within 200 feet and the average setback is 8.5 feet.
13. He showed Exhibit A-6 which is photo of structure views.
14. Side yards 3 ft./3ft., existing third structure zero setbacks. They are improving front yard and side yard setbacks by moving units.
15. Parameter distance 3 feet compliance.
16. The height of first existing unit 21 ½ feet which is close to proposed.
17. The units will meet residential code compliance.
18. It's an aesthetic improvement.
19. Lot is unique shape and is exceptionally narrow.
20. He spoke of general welfare benefits and compliance with flood regulations.
21. Negative criteria – height does not have detriment and house is being pushed back.
22. Going from zero onsite parking spaces to four.
23. Master Plan – keeps boro as thriving village to expand tax base, this project is perfect in keeping with that.
24. Fifth Street is one way and only has parking on one side of street.
25. They can do 18 foot width driveway.
26. The rear will be grass area.
27. Sewer laterals all on one.

Mr. Keady stated that grading and drainage he will need additional information.

Mr. Marciano continues as follows:

28. Spoke of water runoff.
29. Under units B,C,D will remain open with lattice.

Public Questions

Tara Kausman stated that parking in the summer is horrendous and then questioned definition of bungalow colony.

Chris Francy of 36 Fifth Street stated the public parking lot is not public. He then spoke of existing use verses expansion of existing use.

Mr. Marciano stated it's a physical expansion, not expansion of use.

Mr. Serpico explained this comment does not trigger a use variance.

_____ of 68 Fifth Street asked if they were aware marina is for sale.

Mr. McGann objected

Public questions closed.

Mr. McGann stated that this concludes his case.

Public Comments.

Borough of Highlands
Planning Board
Regular Meeting
April 10, 2014

Chris Francy of 36 Fifth Street was sworn in and stated that the clam plant parking lot is not a public lot and that the parking would have to get resolved.

Mr. Serpico stated that they need a parking variance.

Mr. Luzzi was sworn in and stated this is a great idea but structures are too big for the property.

Public Comments closed.

Mr. McGann gave summation.

The Board deliberated.

Mr. Stockton stated he was swayed by testimony for application which he further explained.

Mr. Gallagher stated that the proposed is an improvement verses the existing.

Mr. Korn explained the positives of the proposed application.

Mr. Hill stated parking on Fifth Street is difficult but net three parking spaces is an improvement and also mention he would like shutters and different color structures. He then stated that the case was well presented.

Mr. Britton stated that the property was dilapidated prior to Sandy and the proposed is an improvement. Parking will always be a concern.

Mr. Danzeisen concurred.

Mr. Keady read possible conditions of approval.

Mr. Gallagher offered the approval of the application, seconded by Mr. Britton and approved on the following roll call vote:

ROLL CALL:

AYES: Mr. Gallagher, Mr. Hill, Mr. Britton, Mr. Danzeisen, Mr. Korn, Mr. Stockton

NAYES: None

ABSTAIN: None

Mr. Colby returned to table

Approval of Minutes

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

ROLL CALL:

AYES: Mr. Gallagher, Mr. Hill, Mr. Colby, Mr. Britton, Mr. Korn, Mr. Stockton

NAYES: None

ABSTAIN: None

Executive Session

Mr. Serpico read the following resolution for approval:

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:

Borough of Highlands
Planning Board
Regular Meeting
April 10, 2014

1. Litigation: Possible Litigation

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.
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 collective 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.

Borough of Highlands
Planning Board
Regular Meeting
April 10, 2014

Seconded by Mr. Hill and all were in favor.

The board then entered into executive session.

The board returned from executive session at 10:12 p.m.

The meeting then adjourned at 10:12 p.m.

Carolyn Cummins, Board Secretary