

**Borough of Highlands  
Planning Board  
Regular Meeting  
May 8, 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.

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 Planning Board and all requirements have been met. Notice has been transmitted to the Asbury Park Press, Two River Times and the Star Ledger. Notice has been posted on the public bulletin board.

**ROLL CALL:**

**Present:** Mayor Nolan, Mr. Gallagher, Mr. Hill, Mr. Redmond, Mr. Colby,  
Mr. Danzeisen, Mr. Stockton

**Absent:** Mr. Britton, Mr. Korn, Mr. Kovic

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

**Leave Early:** Mr. Gallagher left the meeting at 7:45 p.m.

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**PB#2014-1 Scanlon, Eileen  
22-24 Fifth Street – Block 56 Lot 15  
Application Review & Set Public Hearing Date**

**Present:** Catherine Franco  
Eileen Scanlon

The Board reviewed the application and the following was stated:

1. Catherine went back to Zoning Officer and the Zoning Officer sent this application back to the Planning Board if we were to lower the height.
2. Mr. Serpico advised her that she must list all of the variances in the notice.

Mr. Colby offered a motion to schedule this matter for a public hearing at the June 12<sup>th</sup> meeting. Seconded by Mayor Nolan and approved on the following roll call vote:

**ROLL CALL:**

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

**NAYS:** None

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**PB#2014-3 Piccolo, Tommaso  
1 Atlantic Street – Block 72 Lot 8, Block 69 Lot 11  
Application Review & Possible Public Hearing**

**Present:** Tommaso Piccolo  
William Miller, III, A.I.A.

**Conflict:** Mr. Gallagher stated that he has a conflict

Tommaso Piccolo was sworn in and stated that he was the applicant and he served public notices for a hearing this evening and that he has his affidavit of publication.

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Mr. Serpico stated that five property owners were not properly served.

Mr. Piccolo provided Mr. Serpico with affidavits that the property owners received the notices.

Mr. Serpico stated notices are okay if no variances are needed.

William Miller of 15 Parker Ave, Fair Haven, NJ was sworn in.

Mr. Serpico stated if the property is not merged then a variance is needed but you can reduce size to eliminate variance.

Mr. Stockton stated that the tax map info does not match survey and questioned property lot numbers. What lots are you here for and does that match the application for the 200 foot list.

Mrs. Cummins stated that the tax map and the tax computer do not match.  
Brief discussion as to confusion of the block and lot numbers.

Mr. Stockton stated there is some confusion as to lot boundaries. Something is different with tax information and survey information, nothing matches.

Mayor Nolan offered a motion to deem the application complete, seconded by Mr. Redmond and approved on the following roll call vote:

**ROLL CALL:**

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

**NAYS: None**

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**PB#2014-3 Piccolo, Tommaso**

**1 Atlantic Street – Block 72 Lot 8, Block 69 Lot 11**

**Hearing on New Business**

The following exhibits were marked into evidence this evening:

- A-1: Site Plan Check List;
- A-2: Photos on 8 X 11 Paper;
- A-3: Photo
- A-4: Photo
- A-5: Photo
- A-6: Photo
- A-7: Photo

Mr. Miller gave the following testimony and response to questions by the board:

1. The Applicant wants to put 3,744 \_\_\_\_\_ for a seasonal use a tiki bar and food. They will have ten feet on each side. Example would be the San Genera Festival.
2. He gave photos as examples that he took in Belmar to show examples of proposed use. The concept is to week before Memorial Day set up tents for bar and cooking and tables and chairs.
3. They would operate June, July and August or week after Labor Day they would disassemble.
4. This is a bit unique electric quick disconnects and ice in a tub.
5. The food would be prepared off site and completed on site

Mr. Tommaso gave the following testimony:

1. He wants to put up ten for bar and a tent for food.
2. They will have ice dropped off every day.
3. Deliveries would be from 10AM – 4PM

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4. Hours of operation 11 am – 10 pm and on weekends till 12 pm.
5. Music would not be amplified.
6. He is very familiar doing food in street festivals.
7. He will prepare food at his restaurant in Middletown.
8. He spoke of the lighting.
9. Propose about 100 seats.
10. There are 100 parking spaces on site that would accommodate 400 people.

Mr. Miller stated the following:

6. There is an enormous amount of parking spaces on site.
7. He described the paved areas on the site.

Mr. Keady stated that he has 78 parking spaces on lot 8 and on lot 13 he counted 44 spaces. How many seats did the clam hut have compared to this application. Is the proposal for less seats than the Clam Hut.

Mr. Miller – yes.

Mayor Nolan Clam Hut was 230 to 250 seats and there is adequate parking.

Mr. Miller stated that there are no future plans to construct a restaurant. They want approval for temporary structures for multiple years. We are here for this plan and if he changes plan they would come back. The applicants want final approval.

Mr. Stockton questioned Marine Use which may have parking impact on this site with the Marina slips. There here for lot 8 and 8.01 which has boats docked at the marina.

Mr. Piccolo stated that they are not putting signage up, will just put sign on street where old Clam Hut sign was.

Mr. Miller stated the concrete pad will be reduced 10 feet on each side to increase seating area. Will a sidewalk to the seating area add to connect to the pave street and sidewalk to the toilette room.

Mr. Stockton questioned fencing.

Mr. Miller explained fencing and lattice fencing.

Mr. Miller then stated that the bathrooms are on another lot. They will have access to toilette off the boardwalk. The bathrooms are in a building on another lot.

Mr. Keady - how are you going to provide ADA access to bathrooms across a stone lot. Does the route to the bathroom meet ADA compliance?

Mr. Miller stated that he can't testify as to the grade on the site for ADA compliance. The board could make this a condition of approval to conform to ADA requirements.

Discussion continued about bathroom location and access to bathrooms

Mr. Keady – we are crossing lot lines now.

Mr. Stockton the property has no bathroom facilities. They are crossing onto other lots.

Mr. Keady – is lot 9.012 owned by a different person.

Tom Morford was sworn in and stated the following:

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1. Block 69, lot 13 and 13.01 his brother in law is the owner. I manage the properties.

Mr. Stockton stated he wants a clear application and that the applicant should come back next month. I asked what lot you were here for and was told lot 8.

Mr. Morford – I am not the owner of the property. His brother in law is property owner and he is manager of property. The owner owns the Marina on the Bay lot 9.012, 9.001. Then there is block 72 lots 8 & 8.01. Then there is block 69 lot 13 & 13.01 are all owned by one person. The liquor license is on lot 8 and 8.01.

Mr. Stockton the site plan application states 72 lot 8 and block 69 lot 13 and your application for the 200 foot list does not list all of the block and lots and you only requested property owners list for two properties. Lot 9.012 is also affected and in not on the application and not on the 200 foot list either.

Mr. Morford if we don't use the bathrooms and just use temporary bathrooms.

Mr. Serpico you can't just do that.

Mr. Serpico stated that the application for the 200 foot list did not list all of the block and lots so notice is not proper and we can't hear you. Also if you are going to use separate properties then you will need easements.

Discussion continued about confusion of which lots are being used.

Mr. Serpico explained that the applicant must reapply for a 200 foot list which as to include all on the block and lots included in the application.

Mr. Miller we will amend plan to show parking spaces, 10 setback, how many seats, boat slips and comply with engineer's letter. They will also reapply for 200 foot list and renotece.

Mayor Nolan offered a motion to reschedule the public hearing to the June 12<sup>th</sup> meeting. Seconded by Mr. Redmond and approved on the following roll call vote:

**ROLL CALL:**

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

**NAYS: None**

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**PB#2014-2 Birchwood, Inc.  
1 Atlantic Street – Block 72 Lot 8 and Block 69 Lot 13  
Approval of Resolution**

Peter Mullen of 11 Marine Place questioned the zone location in the resolution and stated it was incorrect.

Mr. Keady and Mrs. Cummins reviewed application and minutes and confirmed it is in the WTC Zone.

Mr. Mullen has an issue with this being a permitted use.

Mr. Serpico stated that the board decided that it's a permitted use.

Mr. Mullen stated that it's not a permitted use.

Mr. Serpico informed Mr. Mullen that if he disagrees that he should file an appeal.

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

**RESOLUTION APPROVING THE MINOR SITE PLAN AND VARIANCE APPLICATION OF  
BIRCHWOOD INC., BLOCK 66, LOT 11**

WHEREAS, the applicant Birchwood Inc., is the owner of property known as Block 66, Lot 11 on the Borough of Highlands Tax Map, which property is located at 60 5th Street, Highlands, New Jersey and is located in the WT-C Zone; and

WHEREAS, the applicant has applied for preliminary and final minor site plan approval and bulk variances for the demolition and reconstruction of four (4) bungalow units that were severely damaged by Hurricane Sandy. The details of the foregoing application are set forth in the application filed with the Board and on the maps and exhibits presented to the Board at a public hearing held on April 10, 2014; 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 April 10, 2014; and

WHEREAS, Kevin Birch, a principal of the applicant and Jason Marciano, a licensed civil engineer and planner in the State of New Jersey testified on behalf of the applicant at the public hearing; and

WHEREAS, members of the public also testified at the public hearing; and

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

1. The property is located in the WT-C Zone.
2. The proposed use is a permitted use in the aforementioned zone.
3. The variances required in connection with this application are as follows:
  - a. The required minimum side yard setback is 6/8 feet and the applicant has proposed 3.0/3.0 feet. The existing side yard setback is 0/3.75.
  - b. The maximum building height for bungalows in this zone is 20 feet. The applicant is proposing 21 feet, 7.5 inches for the front building facing 5<sup>th</sup> Street.
  - c. The required on-site parking requirement pursuant to the zoning ordinance is 4 spaces; 1 for each dwelling and the applicant has proposed 4 spaces; 2 for the front dwelling and 2 for the second dwelling and none for the third and fourth dwellings. Therefore a variance is required.
  - d. The application does not meet the RSIS minimum on-site parking requirement however the applicant has demonstrated to the satisfaction of the Board that it has alternative off-site parking available to the occupants that satisfies the RSIS requirement.
4. The applicant's planner/engineer opined that the variances are necessitated by the exceptional narrowness of the lot (C-1 criteria) and that the new layout has improved the conditions at the subject premises and lessened the negative impact of the variances on the applicable provisions of the zoning ordinance (C-2 criteria). The planner also testified on the hardship that the applicant would suffer if the variances were not granted.
5. The Board accepts the testimony of the applicant's planner as the basis for the grant of the variances and finds that the proposed project will not substantially impair the intent and purposes of the applicable provisions of the zoning ordinances and master plan and

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will not have any substantial negative impact on the neighborhood in which the project is located.

6. The site plan portion of the application as presented, in conjunction with the conditions of approval imposed by this Board hereinafter, complies with the applicable development ordinances of the Borough of Highlands; and

WHEREAS, the Board after considering the testimony and exhibits has found the proposed project 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 minor site plan and variances 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 set forth in the Board Engineer's report for this project dated April 4, 2014, which report is incorporated herein in full by reference thereto.
4. The applicant agrees to post performance bonds and/or inspection fees as determined by the Borough Engineer if any.
5. The applicant will obtain the approval of all required outside agencies for the project.
6. The applicant's engineer shall revise his plans and include the applicable flood zone determination for the site.
7. The applicant's engineer shall provide updated drainage calculations to the Board Engineer and make the necessary changes to any plans or maps submitted consistent with the updated calculations.
8. The plans shall be revised to show "scalloped" shutters on the structures and open "lattice" installation around the elevated areas of the proposed structures consistent with the testimony at the hearing and the comments of the Board members on these items. The applicant shall also paint the exterior of the proposed structures with different colors as agreed to at the public hearing.
9. The applicant shall plant the rear open area of the property at the waterfront with dune grass and will not install any impervious surface in that area (in accordance with the plans submitted into evidence at the public hearing).
10. The applicant shall submit documentation to the Board Engineer for his review and approval that sets forth the FEMA Regulations of the flood hazard elevation of the land areas of the project that are within the two (2) FEMA flood hazard zones.

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

ROLL CALL:

Ayes: Mr. Hill, Mr. Danzeisen, Mr. Stockton

Nays: None

Abstain: None

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**Approval of Minutes.**

Mr. Hill offered a motion to approve the April 10, 2014 minutes. Seconded by Mr. Danzeisen and approved on the following roll call vote:

ROLL CALL:

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

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NAYS:           None

Mayor Nolan offered a motion to adjourn the meeting, seconded by Mr. Colby and all were in favor. The meeting adjourned at 8:57 PM.

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Carolyn Cummins, Board Secretary