

**Borough of Highlands
Planning Board
Regular Meeting
September 10, 2015**

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

Mr. Stockton called the meeting to order at 7:37 P.M.

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

Mrs. Cummins read 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 and the Two River Times. Notice has been posted on the public bulletin board.

**PB#2015-4 Pulte Homes
Shore Drive – Block 101 Lot 27.02
Hearing on New Business**

Present: James Mullen, Esq.

Mr. Mullen stated that they messed up the notice so the application could not be heard tonight. They request a Special Meeting to hear the application within two weeks. There is no jurisdiction this evening and they will be required to renotice.

There was a brief discussion about setting a special meeting and a special meeting was scheduled for September 30th.

**PB#2015-1 B-Four Enterprises
1 Atlantic Street – Block 72 Lots 8 & 8.01, Block 69 Lots 13 & 13.01, Block 72 Lots 9.001 & 9.012
Approval of Revised Resolution**

Mr. Stockton explained the new and amended version of the B-Four Resolution and that most corrections were procedural.

Mr. Wells questioned backflow conditions.

Mr. Stockton explained that it may be a requirement to install.

Mr. Serpico stated that that decision will be made by the Engineer.

Mr. Keady stated that the applicant stated that it would not serve a purpose, he's not sure.

Mr. Wells asked if the board had the authority to mandate it.

Mr. Serpico again explained that it would be up to the board engineer to determine.

Mr. Wells stated that we should require this even though it does not provide a service to the town.

Mr. Serpico stated that the board has to make a decision.

Mr. Wells continued to speak about requiring backflow requirement.

Mr. Francy asked if we required the same for Pulte Homes.

Mr. Stockton replied yes and explained.

Mr. Francy – we did a storm drain study which should help.

Mr. Keady stated that he can put his hands on that report.

Discussions continued.

Mr. Serpico explained that if the board truly wanted to make such a requirement that it would need a logical engineering reason for it.

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Discussions continued then the resolution was adopted.

Mr. Wells offered the following Resolution and moved on its adoption:

**AMENDING RESOLUTION APPROVING THE PRELIMINARY AND FINAL MAJOR SITE PLAN
AND DESIGN WAIVER APPLICATION OF B-FOUR ENTERPRISES, LLC FOR, BLOCK 72,
LOTS 8 & 8.01; BLOCK 69, LOTS 13 & 13.01; BLOCK 72, LOTS 9.001, 9.011 & 9.012**

WHEREAS, the applicant B-Four Enterprises, LLC (hereinafter referred to as the "applicant") is the owner of the above captioned lots, which lots are located in the WC-2 Zone in the Borough of Highlands, New Jersey; and

WHEREAS, the applicant has applied for preliminary and final major site plan approval with a design waiver for the purpose of operating a tiki bar and restaurant on the site previously occupied by the Clam Hut Restaurant in the Borough. The applicant intends to use the existing structures at the site for lavatory purposes and the tiki bar and the existing parking lot areas. All of the details of the proposed new and existing structures and proposed parking areas are set forth on the plans and maps submitted with the application, and submitted into evidence at the public hearing of the application by the Board held on May 14, 2015. All of the foregoing are incorporated herein by reference thereto. The applicant has also applied for a design waiver to permit new light fixtures to be attached to the existing utility poles at the site at an elevation of 24 feet, where the applicable ordinance permits a maximum elevation of 15 feet; 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 May 14, 2015; and

WHEREAS, Thomas Morford, a principal of the applicant testified on the operational details and the general layout and uses proposed at the site; and

WHEREAS, Michael James Monroe, a licensed architect in the State of New Jersey testified on the architectural elements and addressed the ADA compliance issues; and

WHEREAS, members of the public cross examined the applicant's witnesses and expressed their opinions on 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 and the members of the public:

1. The proposed uses at the site are permitted pursuant to the applicable Borough Development and Zoning Ordinances.
2. The applicant intends to operate the tiki bar from mid-May to mid-September and use the area for boat storage during the months in between during the off-season.
3. The applicant will provide cross-easements for ingress, egress, parking and lavatory uses at the subject property.
4. The portable kitchen proposed to be located on the site will be contained in a trailer that will be placed on the site at the beginning of the season in May and be removed at the end of the season in September.
5. The applicant will operate the bar and restaurant seven (7) days per week from 11:00 am to 11:00 pm during the season.
6. The applicant will employ 10-15 employees during the season.

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7. The applicant proposes to install two (2) dumpsters at the site that will be emptied at least two (2) times per week and more often if necessary.

8. It is contemplated that deliveries to the Tiki Bar operation will be in a box-type truck or similar type of truck. On occasion the deliveries may be in a different type of truck. Insofar as the marina is concerned there may be occasions where other types of trucks will service and make deliveries to that operation.

9. The applicant will have entertainment that complies with the Borough noise ordinance.

10. There will be two (2) lavatories located in each of the existing structures at the site. Two (2) lavatories will be ADA compliant.

11. The project is located in the CAFRA zone and requires CAFRA approval or a letter from the NJDEP exempting the project from the jurisdiction of the NJDEP.

12. The requested design waiver will be granted so long as the light fixtures are shielded if necessary (as determined by the municipal engineer), to prevent light from shining on the contiguous properties that boarder the subject site.

13. The Board finds that there is a pre-existing non-conforming lot coverage variance that is not affected by this application.

14. The Board finds that the number of parking spaces proposed meet the requirements of the applicable ordinances and are adequate for the uses proposed at the subject premises; and

WHEREAS, the Board finds that the preliminary and final site plan application can be approved and the design waiver granted so long as the applicant complies with Board imposed conditions set forth hereinafter.

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 design waiver for the aforementioned lots is hereby approved contingent on 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 May 11, 2015, which 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 shall obtain the approval of all outside governmental agencies that have jurisdiction over this project prior to the issuance of any permits for any construction at the site.
6. The applicant shall supply a permit from the NJDEP for the construction of the existing deck, tiki bar and the construction of the remainder of the proposed site improvements and the location of the mobile kitchen including the sink and grease trap at the premises or a letter indicating that the NJDEP has no jurisdiction over the installation of any one or all of these items. In the event the applicant supplies documentation indicating that the deck and tiki bar construction does not require any approval or permitting from NJDEP, the applicant is permitted to use the deck and tiki bar area provided that the structures are built to be compliant with the FEMA coastal construction guidelines and V-Zone Standards. Additionally should the Tiki Bar area receive all permits and/or approvals from all required agencies, it shall be permitted to open for business without the deck area being completed and/or not yet having received necessary approvals.

In the event any outside agency requires the applicant to make any changes to the plans approved by this Board, the applicant must submit those changes to this Board for its review and approval.

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7. The applicant shall obtain the approval of the Highlands Regional Sewerage Authority for the project if required by law.
8. The applicant shall construct the project in accordance with the plans and maps submitted with the application and/or submitted into evidence at the public hearing or any plans or maps hereinafter supplemented to conform to these conditions of approval and/or the representations made by the witnesses for the applicant at the public meeting.
9. The applicant shall submit the proposed cross-easements for ingress, egress, parking and lavatory use to the Board Engineer and Attorney for their review and approval.
10. The applicant shall repair and stripe the parking areas and replace all damaged sidewalk and curbing at the site where necessary at the direction of the municipal engineer. The applicant shall also install adequate traffic and parking signage at site as per the requirements of the Board Engineer and remove the existing "Private Property-No Trespassing" signs at the site.
11. No boats will be permitted to tie-up to the deck area if the applicant uses the deck area for dining and/or drinking purposes.
12. The applicant shall submit amended site plans to the Board (and Board Engineer) depicting the topography of the area (elevations) and flood zone information requested by the Board Chairman and Board Engineer at the public hearing.
13. The applicant is permitted to have a maximum of 12 boats stored on property during the time period that the bar and restaurant are in operation so long as that does not result in a loss of the amount of the approved parking spaces required by Ordinance or approved by this Board.
14. The applicant will shield the proposed pole mounted light fixtures to prevent light spillage onto contiguous properties if necessary at the direction of the municipal engineer.
15. The applicant shall comply with the Borough sound or noise ordinances.
16. The applicant shall confirm with the Borough Tax Assessor the correct (current) lot and block numbers for the subject property and so designate the correct lots and block numbers on revised plans.
17. The applicant shall submit revised plans showing the number of parking spaces approved for the site; 130 boat slips; 26 seats at the tiki bar; 29 tables with seating for 4 patrons per table on the deck area and around the tiki bar.
18. All construction and equipment shall be compliant with FEMA V-Zone Coastal Construction requirements, NJDEP, CAFRA and Flood Hazard Area construction requirements.
19. The applicant shall be required to install backflow prevention valves on all existing storm drainage outfall pipes. .

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

Ayes: Mr. Hill, Mr. Redmond, Mr. Wells, Mr. Stockton

Nays: None

Abstain: None

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**PB#2015-2 CMB, LLC/90 Portland Road, LLC
Block 2 Lots 6 – 8, 90, 100 – Portland Road
Approval of Resolution**

The Board reviewed the resolution and discussion on about it.

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

**RESOLUTION APPROVING THE MINOR SUBDIVISION
AND VARIANCE APPLICATION OF
CMB, LLC & 90 PORTLAND, LLC,
BLOCK 1, LOTS 6, 7 & 8; R-1.03 ZONE**

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WHEREAS, the applicants are the owners of the aforementioned Block and Lots, which properties are located in the R-1.03 Residential Zone; and

WHEREAS, the applicants have applied for a two lot Minor Subdivision of existing lots 6, 7 and 8 into two proposed lots known as lots 6.01 and 8.01 along with the elimination of existing bulk deficiencies and the creation of new bulk variances which are set forth below; 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 August 13, 2015; and

WHEREAS, the Board heard the testimony of Richard Stockton, a Licensed Surveyor and Planner in the State of New Jersey and the representations of Martin McGann, Esquire, the Attorney for the applicant; and

WHEREAS, the applicant submitted the following documents into evidence:

A Minor Subdivision Plan designated as A-1 in evidence; Existing lot plan, designated as A-2 in evidence; Exhibits A-3 and A-4 which depict the proposed lot lines and side yards, prepared by Richard Stockton.; and

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

1. The property is located in the R-1.03 Residential Zone, which permits the subdivision applied for.
2. The Board accepts the testimony of Richard Stockton as the basis for granting the variances due to the shape, size and location of the proposed lots
3. The Board finds that the applicant has satisfied both the negative and positive criteria for the grant of the variances applied for.
4. The applicant will comply with the outstanding conditions and recommendations if any set forth in the T&M letter dated August 5, 2015, which is incorporated herein in full.
5. The applicant agreed to comply with additional conditions set forth hereinafter.
6. The Board finds the following existing bulk deficiencies will remain unchanged as a result of this application:
 - a. Lot 8.01- the accessory garage structure will be located 0.2 feet from the side line where 3 feet is required.
7. The Board finds the following existing bulk deficiencies will be eliminated:
 - a. Lot 6.01- side yard setback for the accessory shed.
 - b. Lot 8.01- Lot frontage.
8. The Board finds the following new variances will be required as a result of the proposed subdivision:
 - a. Lot 8.01- lot area of 7,075 square feet where 14,000 square feet is the minimum requirement.
 - b. Lot 8.01- lot depth of 89.12 feet where 200 is the minimum requirement; and

WHEREAS, the Board has determined that the variances requested by the applicant 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 subdivision plan and variance to be acceptable with conditions.

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NOW THEREFORE BE IT RESOLVED by the Planning Board of the Borough of Highlands that the application for a two-lot subdivision and bulk variances submitted by the applicants is approved contingent upon the following conditions being met;

1. All testimony, evidence and representations made by the witness and attorney are incorporated herein.
2. Taxes, fees and escrow accounts shall be current.
3. The applicant shall comply with all the outstanding comments and recommendations if any, set forth in the T & M letter for this project, dated, August 5, 2015.
4. The applicant will adhere to the findings of fact set forth above.
5. The applicants will enter into a Developers Agreement with the Borough, if required to do so by the Borough.
6. Subject to the approval of the application by the Monmouth County Planning Board and/or the NJDOT, or any other governmental agency that has jurisdiction over this project, if applicable, to this application and compliance with any conditions imposed by said Agencies.
7. The applicant shall submit the proposed subdivision deeds to the Board Engineer and Attorney for their review and approval.
8. Any and all existing easements shall remain in effect.
9. The applicant shall submit all easement documentation to the Board Engineer and Attorney for their review and approval.

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

Ayes: Mr. Hill, Mr. Francy, Mr. Wells

Nays: None

Abstain: None

Master Plan .

Mr. Stockton stated that the first Stakeholder meeting will be with the Highlands Business Partnership. All Stakeholder Meetings will be kept at the Committee level. The Committee talked about the survey to get it out to the public to solicit information. They have reviewed the draft survey from the old Master Plan but it was too general to use. They did get some feedback from Carla Braswell, HBP. She explained what she would do to get businesses to get involved. He continued to explain what was discussed at Subcommittee Meeting.

Mr. Wells stated that the next step is to ask T & M Associates to provide the survey.

Mr. Stockton stated that next committee would be on the 28th and that the Planner would be needed to attend five additional meetings for the Master Plan.

Mr. Keady will provide Mrs. Cummins with the cost estimate to attend the additional meetings.

Mr. Francy questioned the September 28th meeting.

Mr. Stockton stated that they are not waiting for the survey.

Board had discussion about a concern of a possible quorum being at the September 28th Committee Meeting.

Mr. Wells wants the entire Planning Board to hear the stakeholder meetings.

It was determined that no legal notice would be required for the committee meeting.

Approval of Minutes

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Mr. Hill offered a motion to approve the July 9, 2015 Minutes, seconded by Mr. Wells and approved on the following roll call vote:

ROLL CALL:

AYE: Mr. Hill, Mr. Francy, Mr. Wells, Mr. Stockton
NAY: None
ABSTAIN: None

Mr. Francy offered a motion to approve the August 13, 2015 minutes, seconded by Mr. Wells and approved on the following roll call vote;

ROLL CALL:

AYE: Mr. Hill, Mr. Francy, Mr. Wells

Other Business

Cancellation of September 28th Special Planning Board Meeting

Board had brief discussion about a Special PB Meeting.

Mr. Wells offered a motion to authorize the cancelation of a Special Planning Board Meeting on September 28th, seconded by Mr. Francy and approved on the following roll call vote:

ROLL CALL

AYE: Mr. Hill, Mr. Francy, Mr. Wells
NAY: None
ABSTAIN: None

Mr. Francy offered a motion to adjourn, seconded by Mr. Redmond and all were in favor.

The Meeting adjourned at 8:21 pm.

Carolyn Cummins, Board Secretary