

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

**RESOLUTION DENYING THE VARIANCE APPLICATION OF  
GARY BRAININ, Jr., BLOCK 48, LOT 3**

WHEREAS, the applicant Gary Brainin, hereinafter referred to as the applicant is the owner of the property known as Block 48, Lot 3 on the Highlands Borough Tax Map, which property is located at 39 Cornwall Street in the Borough of Highlands; and

WHEREAS, the applicant has applied for relief from Section 21-124 of the Borough Ordinances which section requires his home to be constructed at least one foot above the Base Flood Elevation for the lot. In this case that would require an elevation of 12 feet. The applicant's elevations are as follows:

1. Basement floor elevation of the proposed dwelling 4.2 feet.
2. The first floor elevation of the dwelling is 7.8 feet.
3. The top of the slab elevation of the attached garage is 5.2 feet; and

WHEREAS, Section 21-124 also provides the criteria for relief from the base elevation requirements; 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 number of public hearings and voted to deny the application at the June 8, 2006, meeting of the Board; and

WHEREAS, the Board heard the testimony of witnesses including the applicant, Gary Brainin and the arguments of Counsel; and

WHEREAS, the applicant submitted into evidence a number of documents; and

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

1. The hardship if any testified to by the applicant was self imposed since the applicant did not design the construction of the project to meet the Ordinance requirements.
2. The basis for the requested variance was subjective in nature and not due the physical condition of the property. The reasons offered by the applicant were his growing family, the cost of compliance and that compliance would detract from the aesthetics of the house.
3. Some improvements to the residential section of the property were made before the application was heard by the Planning Board.

4. The applicant made no attempt to minimize or mitigate the degree of the relief requested by re-designing the project.

WHEREAS, the Board determined that the relief requested by the applicant could not be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the Flood Ordinance of the Borough of Highlands for the aforementioned reasons; and

WHEREAS, this resolution shall memorialize the Board's action taken to deny the proposed subdivision and variances at the public meeting held on June 8, 2006;

NOW THEREFORE BE IT RESOLVED by the Planning Board of the Borough of Highlands that the application of Gray Brainin for relief from the Flood Plain Ordinance base elevation requirements for the above captioned property is hereby denied for the reasons aforementioned herein.

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

**ROLL CALL:**

**AYES:** Mr. Mullen, Mr. Urbanski, Mr. Schoellner, Mr. Cefalo,  
Mr. Stockton

**NAYES:** None

**ABSTAIN:** None

**DATE:** August 10, 2006

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Carolyn Cummins, Board Secretary

I certify this to be a true copy of the Resolution adopted by the Borough of Highlands Planning Board on August 10, 2006.

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Carolyn Cummins, Board Secretary