

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

**RESOLUTION APPROVING THE MINOR SUBDIVISION
AND VARIANCE APPLICATION OF EVERCLEAR DEVELOPMENT, LLC,
BLOCK 60, LOT 7**

WHEREAS, the applicant referred to above is the owner of the above mentioned lot, which is located in the R-2.03 Zone; and

WHEREAS, the applicant has applied for a two (2) lot Minor Subdivision with variances. The applicant proposes to subdivide the above captioned lot into two new residential lots, one containing an existing structure that the applicant intends to tear down and one vacant for a single family residence. Each lot will be conforming in nature with the exception of the front yard setback for proposed lot 7.01 from Valley Avenue. The Ordinance requires 20 feet, whereas the applicant is providing 7 feet however the ordinance allows the setback to be less than 20 feet if the proposed setback is consistent with the prevailing setbacks of properties within 200 feet from the subject property. Borough Ordinances also require that all principal structures be constructed on a lot with frontage on an improved public street. The subject properties do not front on the required street however they have direct access to Shore Drive which is an improved public street; 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 June 14, 2007; and

WHEREAS, the Board considered the testimony of Jason Fichter of Insight Engineering who is a licensed Professional Engineer in the State of New Jersey and Delores Armstrong and the legal argument of Counsel; and

WHEREAS, the applicant submitted into evidence a subdivision map in support of the application prepared by Jason Fichter; and

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

1. The property is located in the R-2.03 Zone.
2. The testimony of the applicant's witness verified that the variances requested are technical in nature since the proposed setback from Valley Avenue is consistent with the setbacks in the immediate area and the structures on the lots will have direct access to Shore Drive which is

consistent with the Ordinance and complies with the requirements of N.J.S.A. 40:55D-35 and the case law interpreting said section.

3. The new lots will be in compliance with the applicable bulk provisions of the Borough Zoning Ordinance with the exception of the setback referenced in 2 above.
4. The applicant agreed to comply with the outstanding conditions if any, set forth in the T&M letter dated May 7, 2007, which is incorporated herein in full with the exception of CAFRA approval which is not required and the applicant is not required to do anything further regarding the well that existed on the property.
5. The applicant agreed to comply with additional conditions set forth hereinafter.
6. The applicant established the positive criteria required for the variances applied for; and

WHEREAS, the Board determined that the relief 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 minor subdivision plan and variances to be acceptable with conditions.

NOW THEREFORE BE IT RESOLVED by the Planning Board of the Borough of Highlands that the application for a two lot minor subdivision and variances is 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 will adhere to the findings of fact set forth above.
4. The applicant agrees to enter into a Developers Agreement with the Borough, if required to do so by the Borough.
5. The applicant will tear down the existing one-story masonry building located at the site.
6. The applicant will comply with the conditions set forth in the T & M letter dated May 7, 2007, with the exception of those listed above in the finding of facts. Comment D1 set forth in the letter is hereby modified to require the applicant to provide to the Board Engineer individual grading plans for the disturbed lot areas. This will eliminate the need to re-certify the steep slope areas which are not being disturbed by the applicant.
7. If the applicant intends to perfect the subdivision by deeds, they must be submitted to the Board Engineer and Attorney for review and approval and must further be recorded within the time provided within the Land Use Act.
7. The applicant will contribute to the Borough sidewalk fund if required by the Borough Ordinances for the subject lots.

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

ROLL CALL:

AYES: Mr. Manrodt, Mr. Kovic, Mayor O'Neil, Mr. Nolan, Mr. Harrison, \\
Mr. Cefalo

NAYES: None

ABSTAIN: None

DATE: July 12, 2007

CAROLYN CUMMINS, BOARD SECRETARY

I certify this to be a true copy of a Resolution adopted by the Borough of Highlands Planning Board on July 12, 2007.

BOARD SECRETARY