

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

**RESOLUTION APPROVING THE MINOR SUBDIVISION, LOT
CONSOLIDATION
AND VARIANCE/DESIGN WAIVER APPLICATION OF CHARLES G.
SCATURRO IRREVOCBLE TRUST, ROSARIO SCATURRO IRREVOCABLE
TRUST, CHARLES PAUL SCATURRO IRREVOCABLE TRUST AND THE
PAUL SCATURRO IRREVOCABLE TRUST FOR EXISTING TAX MAP
BLOCK 3, LOT 11**

WHEREAS, the applicants referred to above are the owners of the above mentioned lot, which is located in the R-1.03 Zone; and

WHEREAS, the applicants have applied for two (2) minor subdivisions and lot consolidations with variances and/or design waivers for the above captioned Block and Lot and existing Tax Map Block 1, Lots 14-18 and Block 3, Lot 11; and

WHEREAS, due to the complexity of the application each subdivision will be addressed in a separate written resolution by the Board even though both were approved in one motion by the Board; and

WHEREAS, in connection with this subdivision of Lot 11, the applicants have proposed to subdivide said lot into two new lots designated as proposed Lots 11.02 and 11.03. No improvements are proposed on either lot at this time. Each proposed lot will be undersized however proposed Lot 11.02 is intended to be conveyed to the owner of Block 3, Lot 8 in order to give the owner of Lot 8 waterfront ownership and access and proposed Lot 11.03 may be developed at a later time. In addition to the foregoing the applicant has requested the right to apply to this Board at a later date for the potential construction of an accessory structure on Lot 11.02 such as a boathouse and the potential development of Lot 11.03 in conjunction with existing Lot 12; and

WHEREAS, the details and dimensions of the proposed new lots are depicted on the plans and subdivision map(s) submitted into evidence at the public hearings conducted by the Board on October 13, 2011 and February 9, 2012, which plans and maps are adopted herein in full and made a part hereof; 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 two public hearings held on October 13, 2012 and February 9, 2012; and

WHEREAS, the Board considered the testimony of Walter J. Hopkins, a licensed Professional Engineer and Planner in the State of New Jersey retained by the applicants and various members of the public and the legal argument of Counsel; and

WHEREAS, the applicant submitted into evidence a Minor Subdivision Map and Site Plan in support of the application prepared by Walter J. Hopkins and additional documentary evidence including a Geotechnical Literature Evaluation report prepared by James J. Serpico (not related to the Board Attorney) of Maser Consulting, P.E., dated November 14, 2011, all of which were marked as Exhibits and entered into evidence and are incorporated herein by reference thereto in full; and

WHEREAS, the applicant required the following variances and/or waivers in connection with this second subdivision:

Proposed Lot 11.02

1. The applicant proposes a lot area of 2,458 square feet where 14,000 feet is required.
2. The applicant proposes a lot frontage of 25.04 feet where 75 feet is required.
3. The applicant proposes a lot depth of 93.74 feet where 200 feet is required.

Proposed Lot 11.03

4. The applicant proposes a lot area of 11,516 square feet where 14,000 feet is required.
5. The applicant proposes a lot depth of 100.89 feet where 200 feet is required.
6. The applicants propose roadway construction in connection with this subdivision and the first subdivision that requires two (2) variances from the Borough Steep Slope Ordinance (Section 21-84B). One is for disturbance of the required setback from the top of the slope and the second is for disturbance within the required setback of the toe of the slope.
7. Additional design waivers were required as a result of the proposed subdivisions for lack of sidewalks along the roadway; maximum street grades; sight triangles; street lighting; street signage; additional street and shade tree requirements which are set forth in the reports of T & M Associates, dated September 28, 2011 and February 2, 2012 all of which are incorporated herein in full by reference thereto; and

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

1. The properties are located in the R-1.03 Zone.
2. The testimony of the applicant's witness and argument of Counsel verified that the variances requested in connection with this portion of the subdivision application can be granted so long as adequate conditions are incorporated in the approval granted by this Board.
3. The new lots as depicted on the maps and plans in evidence will result in a better use and layout of the land due to pre-existing road and topographical conditions.

4. The applicants have agreed to comply with the outstanding conditions if any, set forth in the T&M reports issued in connection with this project dated, September 28, 2011 and February 2, 2012, the contents of each being incorporated herein in full by reference thereto.
5. The applicants have agreed to comply with additional conditions imposed by the Board that are set forth hereinafter.
6. The Board finds that the design waivers and/or exceptions from the R.S.I.S. standards are de minimus in nature and will not adversely impact the area in which the lots are located so long as the applicants comply with the conditions imposed by the Board.
7. The applicant has agreed to put adequate restrictions in the deeds for lots 8, 11.02 and 11.03 that will restrict future development of the lots that will be inconsistent with the approvals granted by this Board of both subdivisions.
8. The applicant established the positive and negative criteria required for the variances applied for; and

WHEREAS, the Board determined that the relief requested by the applicants 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 of existing Lot 11 and the variances, design waivers and R.S.I.S. exceptions 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 of Lot 11 and the variances and design waivers and R.S.I.S. exceptions are 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 will adhere to the findings of fact set forth above.
4. The applicant agrees to post performance bonds and inspections fees if required by the Borough.
5. The applicant will comply with the outstanding conditions if any, set forth in the T & M reports issued for the project dated, September 28, 2011 and February 2, 2012.
6. The applicant must perfect this subdivision simultaneously with the first subdivision referred to herein above, both of which must be set forth on one (1) subdivision map prepared by Walter Hopkins, P.E. and L.P.P. The map must be submitted to and approved by the Board Engineer, Robert R. Keady of T & M Associates prior to submission to the Board for execution by the Chairman.

7. The applicant will comply with the recommendations set forth in the report of the Borough Fire Official for this project. If any further review and approval of the project is required by the Fire Official the applicant will complete the review and obtain the required approvals prior to commencement of the project.
8. The applicant will **comply** with any NJDEP restrictions imposed for the entire project in addition to the requirements of the CAFRA Permit issued for this entire project.
9. The applicant agrees to provide protective measures for the existing structures (neighbors' homes and lands and accessory structures) during the construction of the entire project and bond for same.
10. The applicant agrees to hold preconstruction meetings with the residents who own the properties that boarder this project and the Borough Engineer (and any additional Borough department heads that need to be in attendance) in order to set a construction schedule and agree to protective measures for the purposes set forth in condition 9 above.
11. The applicants must provide to the Board Engineer for his review and approval construction, sanitary sewer and site triangle easements proposed for the project.
12. The applicants must provide to the Board Engineer for his review and approval a soil erosion and sediment plan for the project; a site specific soil analysis and the proposed method of handling run off at the site.
13. This approval is subject to the applicant receiving approval for the project from the Freehold Soil Conservation District and the Monmouth County Planning Board (if required by applicable law) and any other governmental agency that has jurisdiction over the entire project.
14. The applicants must obtain **the necessary construction permits** from the Borough Construction Official **for** the project.
15. If the applicant proposes to install bollard lighting in the Borough Right of Way, the applicants or subsequent property owners must be responsible to maintain said fixtures. This condition must be included in any deeds of conveyance of the lots.
16. The applicant must submit to the Board Attorney and Engineer for their review and approval, deeds for proposed Lots 11.02 and 11.03 that contain restrictions against future development of said lots with the exception of an accessory structure on Lot 11.02, that is dedicated to the owner of existing Lot 8. Additionally a restriction must be included in the deeds for both existing Lot 8 and proposed Lot 11.02 that requires both lots to be owned by the same individuals.
17. The applicant may appear before this Board in the future to request **relief from or modification of** the terms and conditions set forth in number 16 above based on a change in circumstances relating to the lots.

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

Ayes: Mr. Mullen, Mr. Redmond, Mr. Gallagher

Nays: None

Abstain: None

May 10, 2012.

Carolyn Cummins, Board Secretary

I certify this to be a true copy of a Resolution adopted by the Borough of Highlands Planning Board on May 10, 2012.

Carolyn Cummins, Board Secretary