

**Borough of Highlands  
Zoning Board of Adjustment  
Regular Meeting  
June 1, 2006**

Mr. Mullen called the meeting to order at 7:48 P.M.

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

Mr. Mullen 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 and all requirements have been met. Notice has been transmitted to the Courier, the Asbury Park Press and the Two River Times. Notice has been posted on the public bulletin board.

**ROL CALL:**

**Present:** Mr. Duncan, Mr. Braswell, Mr. Mintzer, Mr. Francy, Miss Tierney, Ms. Ryan, Mr. Mullen, Mr. Fox, Mr. Anthony

**Absent:** None

**Also Present:** Carolyn Cummins, Board Secretary  
Gregory Baxter, Esq., Board Attorney  
Joseph May, P.E., Acting Board Engineer  
Jaime Sunyak, P.P.

Mr. Mullen introduced Joseph Anthony, a newly appointed Zoning Board Member.

---

**ZB#2006-7 Dorin, Joseph  
Block 35 Lots 10 & 11 – 102 Valley Avenue  
Application Review & Set P.H. Date**

**Present:** None

The Board reviewed the application and stated the following:

1. The height needs to be indicated to see if a variance is needed.
2. The applicant should be prepared to address why propose this in front of house verses side of house and must also provide information pertaining to the grade.
3. Provide photographs of the site.
4. The public hearing date will be scheduled for September 1, 2006.
5. No Board Engineer review letter is required for this application.

**Borough of Highlands  
Zoning Board Meeting  
June 1, 2006 Page 2**

Mr. Duncan offered a motion to schedule this matter for a public hearing on September 1, 2006, seconded by Mr. Francy and approved on the following roll call vote:

**ROLL CALL:**

**AYES:** Mr. Duncan, Mr. Braswell, Mr. Mintzer, Mr. Francy, Miss Tierney,  
Ms. Ryan, Mr. Mullen

**NAYES:** None

**ABSTAIN:** None

---

**ZB#2006-8 Kurtz, Robert & Doreen  
Block 36 Lot 2 – 5 Woodland Street  
Application Review & Set P.H. Date:**

**Present: Robert & Doreen Kurtz**

The Board reviewed the application and the following was stated:

1. The Zoning Officers determination has the wrong lot area and lot depth calculations and the Zoning Officer should be directed to correct it.
2. The applicant should include minimum lot size variance which is a pre-existing condition along with all of the other variances in the public notice.
3. The applicant must provide photographs.
4. The applicant must provide a full copy of the survey with a signature and seal on it which they can bring to the hearing.
5. Give location of houses that will be impacted by this project and show how far they are from the property line.
6. The Applicant explained that the property address is now on Woodland Street which was previously Miller Street.
7. The Zoning Officers Determination was found to be incorrect with regard to the calculations and the board requested that the applicant contact the Zoning Officer to have the determination corrected.
8. The applicant must include in the public notice lot size, lot depth, front yard and rear yard setbacks and any and all other variances deemed necessary.

**Borough of Highlands  
Zoning Board Meeting  
June 1, 2006 Page 3**

9. The applicant must provide photographs of the site and surrounding area.
10. The applicant must provide one full size copy of the survey with a seal and signature on it and bring it to the meeting and provide copies to the board secretary at least 10-days prior to the hearing.
11. The applicant must give the location of the houses that will be impacted by this (lots 4 & 5) project and show how far they are from the property line. The applicant should provide photographs of those properties.

Mr. Duncan offered a motion to schedule this matter for a public hearing on September 7, 2006, seconded by Mr. Mintzer and approved on the following roll call vote:

**ROLL CALL:**

**AYES: Mr. Duncan, Mr. Braswell, Mr. Mintzer, Mr. Francy, Ms. Ryan,  
Mr. Mullen**

**NAYES: None**

**ABSENT: None**

---

**ZB#2005-5 Coleman, Janet  
Block 49 Lot 8 – 53 Shrewsbury Avenue  
Approval of Resolution**

Mr. Mullen read the title of the following resolution for approval:

Mr. Duncan offered the following Resolution and moved for its adoption:

**RESOLUTION APPROVING BULK VARIANCES  
FOR COLEMAN AT 53 SHREWSBURY AVENUE**

**WHEREAS**, the applicant, JANET COLEMAN, is the owner of 53 Shrewsbury Avenue, Highlands, New Jersey (Block 49, Lot 8); and

**WHEREAS**, the applicant has filed an application to renovate the first floor and add a second floor addition to the single-family home; and

**WHEREAS**, all jurisdictional requirements have been met, and proper notice has been given pursuant to the Municipal Land Use Law and Borough Ordinances, and the Board has jurisdiction to hear this application; and

**WHEREAS**, the Board considered the application at a public hearing at a meeting on May 4, 2006; and

**Borough of Highlands  
Zoning Board Meeting  
June 1, 2006 Page 4**

**WHEREAS**, the Board heard the testimony of the applicant, JANET L. COLEMAN, and her son, ROBERT COLEMAN;

**WHEREAS**, no persons appeared in objection or to ask questions regarding the application; and

**WHEREAS**, the applicant submitted the following documents in evidence:

- A-1: Variance application dated May 2005;
- A-2: Zoning Officer denial letter dated 1/27/05;
- A-3: 8/18/03 survey by THOMAS FINNEGAN;
- A-4: Flood elevation certificate reflecting base flood elevation of 12 feet in the VE Zone.
- A-5: 3 pages of architectural plans by MICHAEL SAVARESE dated 11/12/03 (recently revised, though no revision date appears thereon); and

**WHEREAS**, the Board, after considering the evidence and testimony, has made the following factual findings and conclusions:

1. The applicant is the owner of a single-family home in the R-2.02 Zone.
2. The current home has two bedrooms, one bath, a living room, dining room and kitchen. The home is partially demolished, the inside having been gutted. It is not habitable.
3. The applicant proposes to make no structural changes to the first floor (the living room, dining room, kitchen, bath and den will remain). The applicant proposes to add stairs and construct a second floor housing three bedrooms.
4. The footprint of the home will not change.
5. As a result of the master bath jutting out from the building, the side yard will be 7.6 feet.
6. The applicant seeks side yard variances of 8 inches on the north side and 6 inches on the south side.
7. The front line of the applicant's house will be in the same location after construction as it is today.

**Borough of Highlands  
Zoning Board Meeting  
June 1, 2006 Page 5**

8. The applicant's home does not protrude into the front yard any more than others on her side of the block.
9. The deck which appears on the 2003 survey has already been removed.
10. The applicant proposes no new curbs or sidewalks.
11. The plans reflect the bottom of the floor joists being lower than provided by ordinance. The plans shall be changed to reflect 13 feet as the lowest level of the bottom of the floor joists.
12. The proposed changes to this home will not require a height variance.
13. The property provides on-site parking for two cars, in a stacked configuration.
14. This home was in deplorable condition. The proposed changes by the applicant will be a substantial and significant improvement to the property and the neighborhood. In fact, an existing eyesore will be removed.
15. The variances sought are small, both being under one foot variation from the requirements in the zone.
16. The Board determines that the applicant's proposed plans will create a much more aesthetically pleasing home than was and is in that location.
17. The proposed addition will not be a substantial detriment to the public good and will not be a substantial impairment to the intent and purpose of the zone plan and zoning ordinance.

**WHEREAS**, the application was heard by the Board at its meeting on May 4, 2006, and this resolution shall memorialize the Board's action taken at the May 4, 2006, meeting;

**NOW, THEREFORE, BE IT RESOLVED** by the Zoning Board of Adjustment of the Borough of Highlands that the application of JANET L. COLEMAN to renovate the first floor and construction a second story addition to her home at 53 Shrewsbury Avenue (Block 49, Lot 8), as defined on the plans submitted and referenced herein, be and is hereby approved, and variances are hereby granted of 8 inches on the northern side yard and 6 inches on the southern side yard;

**AND BE IT FURTHER RESOLVED** that this approval is subject to the following conditions:

- (1) The finished floor elevation shall be at least 13 feet, in conformance with the flood plain requirements.
- (2) This approval is conditioned on the applicant obtaining flood review approval.
- (3) The height of the home shall not exceed that permitted in the zone.
- (4) In the event new curbs or sidewalks are desired or installed, new details for the same shall be required before any permits are issued.

**Borough of Highlands  
Zoning Board Meeting  
June 1, 2006 Page 6**

(5) The architectural plans shall be modified to reflect the revision date by the architect.

Seconded by Ms. Ryan and adopted on the following roll call vote:

**ROLL CALL:**

**AYES: Mr. Duncan, Mr. Braswell, Mr. Francy, Ms. Ryan, Mr. Mullen, Mr. Fox**  
**NAYES: None**  
**ABSTAIN: None**

---

**ZB#2005-8 Knox 400, LLC  
Block 108 Lot 2.01 – 460 Highway 36  
Unfinished Public Hearing**

**Present: Henry Wolffe, Esq.  
Robert Knox  
Mr. Leckstein, Objectors Attorney  
Paul Mazella, Objector**

**Conflicts: Anne Marie Tierney stepped down for a conflict on this matter  
Joseph Anthony stepped down on this matter.**

Mr. Baxter announced that the Board has an Affidavit by David Mintzer, Board Member stating that he listened to the ZB Meeting tape of May 4, 2006 so that he is eligible to vote on this matter.

Mr. Leckstein gave his closing statement and stated the following:

1. Yes, his client is a rival of the applicant and a resident of Highlands.
2. He then described the Medici case and then stated that the Zoning Board is a judicial body not a legislative body.
3. He explained that he feels that there is no need for a health facility at this site and stated that there are several facilities in this area. He believes that without a need you don't even begin to get into use variances.
4. He feels that there was no expert testimony provided by the applicant and stated that there professionals were not experienced.
5. What about the negative criteria, what about the need for this use, what about the people waiting to get in, where is that testimony that was not provided to establish a need for this facility.
6. The objector provided expert testimony by qualified professionals who explained the parking requirements. He then reviewed the testimony of the objector's professionals with regard to the parking deficiencies of this application.

**Borough of Highlands  
Zoning Board Meeting  
June 1, 2006 Page 7**

7. The application has no basis for a “c” variance let alone a “d” variances. There is no hardship for the deficiency in the parking. There is no positive criteria, there is no need established and the negative criteria hasn’t been established because of the parking.
8. He is very upset with the comments made about parking being self limiting.
9. The applicant has not met the standards of the ordinance, they have not met the standards of 40:55d and the case law and the answer is apparent. They didn’t even begin to meet it.
10. This building is too big and does not belong on this site and this facility will create a traffic danger.

Henry Wolffe gave his closing statements and stated the following:

1. The applicant did have an expert, Katherine Franco who testified about the parking and explained her parking calculations.
2. Katherine Franco also provided a breakdown of the use in portions of the facility and her testimony was that 45 parking spaces would be required and we have 39 spaces, so we are only talking about 6 parking spaces.
3. Yes, parking is self regulating which he explained.
4. The objection has nothing to do with land use, it has everything to do with competition.
5. The objector is worried that the applicant will build a better club with cheaper prices.
6. As far as the site is concerned they are improving the site and will reduce the lot coverage from the existing 99% to the proposed 80%. There will be landscaping, curb cuts and it will be a better site which he further explained.
7. The proposed is exactly the kind of development which is highway oriented that is called for in the Master Plan
8. The use that we are proposing is a business use and is not so different than the permitted use.
9. The Zoning Officer at first found this application to be a permitted use until the objector launched his objections.
10. The legal question raised by the objector is have we proven special reasons and it is true under the Medici case that most commercial uses are not considered to be inherently beneficial for the general welfare. If the site is uniquely suitable for that use then the special reason test is met and that is exactly what we have here.
11. This is a regional use and this site is perfect it’s located on Route 36 which he further explained.
12. This facility is very easily accessed and is on a main artery and this site is uniquely suitable for the purpose that this is going to be used for.

**Borough of Highlands  
Zoning Board Meeting  
June 1, 2006 Page 8**

13. When you consider the improvements to the property and the requirements of the Master Plan and the testimony that was presented, he believes that there were special reasons.

Mr. Leckstein stated that it's been proven that the parking deficiency is more than just a few spaces.

Mr. Wolffe – the objectors Professional Planner stated that the only objection that he had was to the parking, he had no objection to the use.

Mr. Duncan offered a motion to close the public hearing, seconded by Mr. Mintzer and all were in favor. The public portion was closed on this matter.

The Board then deliberated and discussed the application as follows:

Mr. Francy explained that he is in favor of the application and is persuaded by the initial fact that the use was not going to be denied and he believes that this is a use suited for this location. We struggle with parking issues in Highlands consistently and the variance required for parking in this situation is something that he can live with.

Mr. Duncan explained that a facility like this he believes is a personal service establishment. The testimony of the objector has focused on the name classification of the business, parking requirements and the need for this business. He then recapped some of the objector's witness's testimony. With regard to a parking problem he believes that there could be but he does not believe that 70 spaces is a reasonable number for a facility of this size which he further explained. He believes that this site is probably the most suited available site in Highlands to build a facility of this nature. He feels that the objector has failed to produce evidence that this site is unsuitable therefore he is in favor of the application.

Mr. Mullen explained that this is a B-1 Zone and the latest Master Plan identifies it as highway oriented and he believes that this make it a unique site. Permitted uses in this site are retail uses and personal services establishments and he believes that this closely represents a personal service establishment. The Zoning Ordinance list ten uses in this zone and it's probably not a comprehensive list of the possible uses. There is no mention of an athletic club or fitness center in our ordinance so he does not believe that this is something that was purposely omitted but was just not put in the ordinance. With regard to the need, this is not a new facility so we are not generating a new facility. We are basically moving a facility that already exists. He believes that fitness and exercise definitely promotes to general welfare. This site is uniquely suited for regional clential. He believes that this facility has the potential to have a less intensive use then the existing use. He can not think of any negative impacts of this facility other than some of the

**Borough of Highlands  
Zoning Board Meeting  
June 1, 2006 Page 9**

deficiencies in parking. He does not believe that the variance would be inconsistent with the intent and purpose of the municipal zoning ordinance and that it is in character with the neighborhood. With regard to the intensity of the use of this site the FAR that is anticipated by our ordinance is .65 and the applicant is at .35. The lot coverage anticipated by ordinance is 80% and the applicant meets that requirement. The building coverage of the lot is 35% is permitted and 21% is proposed. The objectors witnesses stated that it isn't an athletic facility because it's not big enough, so the bigger the building the less parking requirements which seems to be an odd rationale. With regard to traffic, there are three means of getting to this site. The traffic flow within the site is an improvement over the Quick Check which has you entering and existing in the same entrance. The Parking requirement was more skewed than Mr. Leckstein would indicate which he further explained. He believes that the applicant development this project under the current zoning ordinance. He believes that this board is reasonable in developing there own feeling about the deficiency in parking to look at some other municipalities because they are dealing with the same population which he further described. Parking in our community is a very difficult thing and if parking was the threshold of suitability to a site then he thinks that there would be many structures in this community that could not pass. The borough recognizes that and they developed for commercial developments only to provide for alternative donations to parking funds so that general municipal parking can be developed else where.

Mr. Braswell stated that he believes that this is a permitted use which he further explained. In terms of parking and traffic problems it means that we have a thriving business community. Traffic and parking problems can be inconvenient and he believes that there are challenges to be dealt with not avoided which he further explained. He stated that he is in favor of this application.

Mr. Mintzer stated that he disagrees with Mr. Lecksteins statement that we are legislating from the bench. Our zoning ordinance does not cover every possible business use, there are only ten mentioned in the ordinance. He feels that this situation is very well suited for this site and he is concerned with the traffic flow and parking at this site but believes that the Linden Ave jug handle and Navesink one will regulate it. This is a self regulating situation. If he belonged to this club and was not able to find a parking spot, he would cancel his membership, so he believes that it is self regulating. The Board heard many different variations of what the correct number of parking spaces is and the neighboring towns were fairly close to this 8500 square foot measurement and not far off from this request. He stated that he is in favor of this application and feels that it fits the lot very well.

**Borough of Highlands  
Zoning Board Meeting  
June 1, 2006 Page 10**

Mr. Fox stated that he finds in favor of the applicant. He feels that the use is appropriate and very beneficial to the borough. He did have some concerns with the parking and the traffic but he thinks that those problems will not be huge and will be self regulating.

Ms. Ryan explained that she does believe that the parking will be self regulating. With regard to the use it is what our Master Plan indicated and she feels that this will make the property visually more pleasant.

Mr. Duncan stated that the revised design should be included in the resolution.

Mr. Baxter and the board recapped the application and variances and comments for conditions and stated that the following variances are required: use variances for the use itself, variances for the outdoor living space, variance for height, and also for the freestanding ground sign, site plan approval, the design waiver for the size of the parking stall, parking variance where 39 parking spaces are being provided where they are 7 spaces short for the site and are required to contribute to our parking deficiency ordinance. This approval should be conditioned up on the following: NJDOT approval, lighting on the site to comply with ordinance which is shown in new scheme, contribute to the parking deficiency fund for seven spaces, applicant must obtain borough approval for grass in the ocean avenue right-of-way, fire hydrant to be installed in accordance with the fire department directions, NJDOT approval for the curbing on Route 36, there needs to be an ADA curb cut at the sidewalk level to the building to be shown on the plans, Comply with Board engineers letter dated 2/2/2006 Sections two, three, four and five outstanding issues, there will be no self prepared foods and will be no oven or restaurant, the facility will not be made available for parties or overnight proms and things of that nature, no live music or bands.

Mr. Duncan offered a motion to approve the application variances and site plan and all of the above conditions, seconded by Mr. Braswell and approved on the following roll call vote:

**ROLL CALL:**

**AYES:** Mr. Duncan, Mr. Braswell, Mr. Mintzer, Mr. Francy, Ms. Ryan,  
Mr. Fox, Mr. Mullen

**NAYES:** None

**ABSTAIN:** None

---

**9:31 P.M.**

**ZB#2005-9 Palatial Homes, LLC  
Block 63 Lot 19.01 – 231 Bay Avenue  
Hearings on New Business**

**Borough of Highlands  
Zoning Board Meeting  
June 1, 2006 Page 11**

**Present: Wayne J. Peck, Esq. Applicants Attorney  
James Kennedy, P.E., Applicants Engineer  
Anthony Eurcolino, A.I.A, Applicants Architect  
Ray \_\_\_\_\_, P.P.**

Mr. Peck explained that this property is known as the Gimpi's the old bar in town on Bay Avenue. The Borough Master Plan tells you that one of the charges is to get rid of commercial uses in residential zones and Gimpi's is a commercial use in a residential zone. One of the realities that the board has to face is that in order to get rid of what are otherwise viable commercial uses you have to consider alternatives that are economical viable. We have a proposal here before you tonight to help the town to get rid of this commercial use that is located in a residential zone in a way that they feel is compatible with a residential use because this specific proposal is not permitted. We are here requesting a use variance along with several bulk variances. In each instance the board will hear that the bulk variances that they are requesting for this project lessons the existing variance that exist because of Gimpi's being present.

Mr. Mullen stated that for the record he has sold property to Palatial Homes at some point in the past about four years ago.

Mr. Peck stated that he does not believe that there is any conflict.

The following documents were marked into evidence:

- A-1: Variance Application consisting of four pages;
- A-2: Zoning Permit Application dated 11/16/05;
- A-3: Freehold Soil Conservation District Letter dated 12/1/05;
- A-4: Site Plan Application consisting of seven pages;
- A-5: Storm Water Management Report prepared by Kennedy Consulting dated 10/27/05;
- A-6: Monmouth County Planning Board Approval Letter dated 12/12/05;
- A-7: Site Plan prepared by Kevin Kennedy last revised on 1/25/06;
- A-8: Architectural Plans prepared by Anthony Ercolino, dated 11/16/05;
- A-9: Freehold Soil Conservation Certification Letter dated 2/16/06;  
**Mr. Peck stated that he only has the original and will supply the board with a copy at a later time.**
- A-10: Site Layout with Color on Large Board;
- A-11: 1,000 foot radius Aerial map;
- A-12: 200foot radius Aerial Map;
- A-13: Colored 8 ½ x 11 Photograph;
- A-14: Colored 8 ½ x 11 Colored Photograph;

**Borough of Highlands  
Zoning Board Meeting  
June 1, 2006 Page 12**

- A-15: Colored 8 ½ x 11 Colored Photograph;
- A-16: Colored 8 ½ x 11 Colored Photograph;
- A-17: Colored 8 ½ x 11 Colored Photograph;
- A-18: Cedar Street Elevation on Large Board;
- A-19: Colored Rendering of Proposed Structure on board;
- A-20: Colored Rendering on board;
- A-21: Colored \_\_\_\_\_ on large board;
- A-22: Colored \_\_\_\_\_ on large board;
- A-23: Colored \_\_\_\_\_ on large board;
- A-24: \_\_\_\_\_

- B-1: Board Engineer Review Letter dated 4/5/06;
- B-2: Board Engineer Review Letter dated 3/2/06;
- B-3: Board Engineer Review Letter dated 7/6/06;

Jaime Sunyak, P.P. of Schoor DePalma was sworn in .

James Kennedy, P.E. was sworn in and stated the following during his testimony and response to questions from the board:

1. He described the existing site as being known as Gimpi's Bar containing a mixed building of one, two and three story construction. There is a paved area in the rear which has nine parking spaces. It was operated for many years as a bar/restaurant facility. The lot has 50-foot frontage on Bay Avenue, they also have frontage on Cedar and Second Street as well. The existing building basically runs from the mid point of the lot to about 15-feet from Bay Avenue. The lot is a 10,000 square foot lot in the R-2.02 Zone which requires a lot area of 4,000 square feet. The lot depth is 200 feet and the lot width is 50-feet ( using Bay Ave as the frontage). The existing front yard varies from 1.8-feet to 15-feet depending on which frontage you look at from the structure.
2. If the County requires an easement on the front of Bay Avenue then it has no function on the front set back. If it's a right-of-way which they have requested of 30-feet from the center line it would indicate a change in the front yard setback. However, we would take the position that the Development Committee would be open to our discussion of requesting an easement rather than a right-of-way.
3. He then stated that A-13 and A-14 are photographs of the existing site.
4. The existing lot is a covered lot of 86 ½ %, the existing building covers 31 ½%, it's a developed lot.
5. The existing building is a non-conforming structure in the zone. The front yard on Bay is non-conforming, the front yard on Cedar is only about 1.8 feet. The rear yard or the structure to the rear varies and encroaches about 6-feet of the property line. The lot coverage is 86 ½ % where 75% would be permitted. The building height is a one, two and three story structure and it's in excess of 33 feet tall where 30 feet is permitted.

**Borough of Highlands  
Zoning Board Meeting  
June 1, 2006 Page 13**

6. He reviewed item 3.2 of the Schoor DePalma letter dated 3/2/06 which refers to the storm water management plan. He explained that they are taking a non-structure approach to storm water management which is provided in the storm water report that he prepared.

7. They are within the flood area located in the A-Zone which requires an elevation of 11-feet. They have the garage at 5-feet which is typical, all mechanics and the living floors will be above the base flood elevation.

8. He then reviewed with the Board Exhibit A-10 and described the landscaping plan. He stated that the Home Owners Association will be responsible for the maintenance of the landscaping.

9. He then described the existing site lighting and the proposed site lighting.

10. Roadway improvements along Second and Cedar Street – they are proposing all new curbing, a sidewalk on Second Street, landscaping and limiting pavement repair, any utility cuts will be repaired to borough standard. They are not proposing sidewalks on Cedar Street only on Second Street. They can provide a pedestrian linkage on Cedar to Bay and Second but it would take away from landscaping.

Mr. Peck stated that the applicant would provide a sidewalk on Cedar if required.

The Board felt that it was very important to provide a pedestrian linkage on Cedar to Bay and Second.

Mr. Kennedy continued his testimony as follows:

11. He described the property elevations to the board and stated that they will provide a swail at the rear of the property to prevent water runoff, so basically there are no changes to the existing elevation.

12. Mr. Kennedy discussed item 3.4 of the Board Engineers Review letter relating to the sanitary sewer connection. Mr. Kennedy stated that they are going to be connecting to the manhole but will connect to the line if required to do so by the Board Engineer.

Mr. Peck stated that item 1.5 of subsection E of the Board Engineers Review letter questions if a use variance is needed for density and Mr. Peck concedes that it is required and that they have applied for it. He stated that every thing in the Board Engineers review letter dated 3/2/06 will be complied with other than the issue of the sidewalk which will be discussed.

The Board Chairman discussed the required variances with Mr. Peck.

**Borough of Highlands  
Zoning Board Meeting  
June 1, 2006 Page 14**

Mr. Peck then reviewed B-1 which is a letter dated 4/5/06 and there were a couple of engineering issues raised. He will pass on the height issues and let the architect address that. There are some engineering matters under item 4.O and 5.O and he represented to the board that they will meet each and every one of those items. There will be no lighting in the rear of the building. There was a comment about site triangles and they will provide them.

Mr. Kennedy continued his testimony as follows:

13. The building coverage will be 44.3%, 18-foot front yard setback from building, from the covered porch it's a 15-foot front yard setback to Bay Avenue, 16.0-feet from the circular element to Cedar Street at the north easterly corner of the structure and down toward Second Street they have a setback of 20.1-feet from the structure to Second Street. The building is parallel with the curb not the property line on Cedar. He then described the proposed curbing for Cedar Street

Mr. Peck explained that it's really a depressed curb for the driveways on Cedar Street.

Mr. Mullen stated that the Engineer will have to look at the curbing and sidewalks.

Mr. Peck stated that there is an existing 6-foot fence and it will be replaced with a new 6-foot fence.

Mr. Kennedy continued his testimony as follows:

14. He stated that Exhibit A-15 is a picture of the existing fence.

Ms. Sunyak and Mr. Kennedy discussed the proposed driveways and the amount of trips to and from the driveway. Mr. Kennedy stated that he would provide the location of the other driveways on Cedar on the site plan.

Mr. Kennedy continued his testimony as follows:

15. He described Exhibit A-12 to the board and stated that it's an aerial photograph of the site and the adjacent properties.

16. Cedar is a 20-foot right-of-way.

Mr. Peck then showed the Board A-16 to show the width of the existing driveways on Cedar Street.

**Borough of Highlands  
Zoning Board Meeting  
June 1, 2006 Page 15**

Mr. Mullen asked if there were any questions from the public for Mr. Kennedy.

Rita Bellavance of Second Street questioned if Mr. Kennedy knew if Cedar Street is of two-way street and questioned where the guest would park.

Mr. Kennedy explained that there was an existing bar/restaurant at the site and he feels that the proposed change in use would promote a better parking environment. He then stated that they are providing garage parking to help with off-street parking.

Joseph Bellavance of Second Street stated that Cedar Street was not wide enough to back up and people use to knock over the fences when backing up from Gimpi's and he wants to know how Mr. Kennedy has solved this problem.

Mr. Kennedy explained that they are providing wider than normal curb radii which he further explained and he is not aware of the how the people were leaving the Gimpi's parking lot and what condition they were in when leaving. The applicant is providing a driveway that is consistent with the site improvement standards.

Joseph Bellavance questioned how emergency vehicles were now going to get through Cedar since they are proposing a sidewalk.

Mr. Kennedy explained that he is going to work with the Board Engineer to come up with a radius which he further explained.

The Board had a discussion with Mr. Kennedy with regard enough space for vehicles to maneuver onto Cedar Street from the proposed driveways and the driveway widths.

There were no further questions from the public.

Anthony Ercolino, A.I.A. of 1320 Allaire Ave, Ocean Township was sworn in.

Mr. Ercolino stated the following during his testimony and response to questions from the board:

1. He is a licensed Architect in the State of New Jersey.
2. He designed the proposed new structure.
3. He then described the existing structure which is falling down and is dilapidated.
4. They are proposing a five unit townhouse structure which will be of a Victorian style design and showed the board Exhibits A-18, A-19 and A-20 and described them.
5. The air condition units will be placed on the roof.
6. The height variance is strictly for aesthetic reasons its 31 feet 7 inches to the flat roof, it's 36 feet 1 inch to the mean height of the tarot.

**Borough of Highlands  
Zoning Board Meeting  
June 1, 2006 Page 16**

7. If the Board does not grant the height variance then they would remove the aesthetic portions of the roof.
8. The height of the existing building is 33.2 feet.
9. The height of the proposed building to the tip of the gable is 41 feet 5 inches.
10. Style wise the proposed structure can fit into the neighborhood.
11. The length of the proposed building is 160 feet.
12. All of the proposed units will be restricted to two bedroom units.

The board expressed their concerns with the proposed structure and the length of it.

Mr. Peck stated that they will be revisiting the board issues.

Mr. Mullen asked if there were any questions from the public for Mr. Ercolino.

Joseph Bellavance questioned why the building has to be so high and why five units and not three units.

Mr. Ercolino explained his reasons for the proposed height.

Rita Bellavance questioned why there were no proposed decks.

Mr. Ercolino explained that was do to an effort to try and relate to Bay Avenue and this is a tight site.

There were no further questions from the public for Mr. Ercolino.

Mr. Ercolino stated that the square footage of each unit is 857 per floor for the interior units and 888 square feet per floor for the end units.

Miss Tierney offered a motion to carry this public hearing to the July 6, 2006 Meeting without further public notice, seconded by Ms. Ryan and approved on the following roll call vote:

**ROLL CALL:**

**AYES:** Mr. Duncan, Mr. Braswell, Mr. Mintzer, Mr. Francy, Miss Tierney,  
Ms. Ryan

**NAYES:** None

**ABSTAIN:** None

Mr. Peck stated that the applicant approve the extension of time for the Board.

Mr. Mullen announced to the public that this hearing will continue at our July 6, 2006 meeting with no further public notice.

---

**Approval of Minutes**

Mr. Duncan offered a motion to approve the May 4, 2006 meeting minutes, seconded by Ms. Ryan and all were in favor except Mr. Mintzer and Ms. Tierney whom both abstained.

---

**Executive Session Resolution**

Mr. Baxter read the following Resolution for approval:

Mr. Mullen offered the following Resolution and moved its adoption:

**RESOLUTION  
EXECUTIVE SESSION**

**BE IT RESOLVED** that the following portion of this meeting dealing with the following generally described matters shall not be open to the public:

**234 Bay Ave, LLC Litigation**

**BE IT FURTHER RESOLVED** that it is anticipated that the matters to be considered in private may be disclosed to the public at a later date when the need for privacy no longer exists; and

**BE IT FURTHER RESOLVED** that no portion of this meeting shall be electronically recorded unless otherwise stated; and

**BE IT FURTHER RESOLVED** that the private consideration is deemed required and is permitted because of the following noted exceptions set forth in the Act:

9. Related to pending or anticipated litigation or contract negotiations in which the public body is or  
may be a party.

Seconded by Mr. Duncan and approved on the following roll call vote:

**Borough of Highlands  
Zoning Board Meeting  
June 1, 2006 Page 18**

**ROLL CALL:**

**AYES:** Mr. Duncan, Mr. Braswell, Mr. Mintzer, Mr. Francy, Miss Tierney,  
Ms. Ryan,  
Mr. Mullen

**NAYES:** None

**ABSENT:** None

**ABSTAIN:** None

The Board then entered into Executive Session at 11:15 P.M. and did not return to the Regular Meeting.

---

**CAROLYN CUMMINS, DEPUTY CLERK**