

**BOROUGH OF HIGHLANDS
ZONING BOARD MEETING
MARCH 1, 2007**

Mr. Mullen called the meeting to order at 7:38 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 Zoning Board 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.

ROLL CALL:

Present: Mr. Braswell, Mr. Mintzer, Mr. Francy, Ms. Ryan, Mr. Fox,
Mr. Mullen, Mr. Anthony, Mr. Britton

Absent: None

Also Present: Carolyn Cummins, Board Secretary
Gregory Baxter, Esq., Board Attorney
Joe May, P.E., Acting Board Engineer

**ZB#2006-1 Duane Realty, LLC – Request for Adjournment with No Further Notice
Block 94 Lots 1 & 16 (321 Bay Avenue)**

Mr. Mullen stated that the Board received a request for an adjournment of the Duane Realty application and they have extended their time for a hearing through June 2007.

The Board had a discussion with regard to rescheduling this public hearing.

Mr. Francy offered a motion to carry the Public Hearing on this matter to June 7, 2007 with a stipulation that they contact the board by April 30th to confirm their June 7th meeting attendance, seconded by Mr. Mintzer and approved on the following roll call vote:

ROLL CALL:

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

NAYES: None

ABSTAIN: None

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**ZB#2006-3 Gordon, G. & P. – Request for Postponement with No Further Notice
Block 19 Lot 21.01 (S. Peak Street)**

Mr. Mullen stated that the applicant has requested an adjournment of the public hearing on this matter.

Mr. Francy offered a motion to schedule the Public Hearing on this matter to May 3, 2007, seconded by Mr. Mintzer and approved on the following roll call vote:

ROLL CALL:

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

NAYES: None

ABSTAIN: None

RESOLUTION – DESIGNATING VICE CHAIRMAN

Mr. Mintzer offered the following Resolution be memorialized and moved on its adoption:

**BOROUGH OF HIGHLANDS
ZONING BOARD OF ADJUSTMENT RESOLUTION
DESIGNATING VICE CHAIRPERSON
FOR THE YEAR 2007**

BE IT RESOLVED by the Borough of Highlands Zoning Board of Adjustment that **Chris Francy** be appointed Vice Chairperson of the Zoning Board for a term of one (1) year expiring December 31, 2007.

Seconded by Ms. Ryan and adopted on the following Roll Call Vote:

ROLL CALL:

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

NAYES: None

ABSTAIN: None

**ZB# 2007-1 Maxson, Richard
Block 64 Lot 20 (222 Bay Avenue)
New Public Hearing**

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Present: Richard Maxson

Mr. Baxter stated that he has reviewed the public notice and all requirements have been met; therefore the Board can take jurisdiction on this matter and proceed with the public hearing.

Mr. Maxson stated that he made an effort to obtain a copy of a survey of the property but was unsuccessful in obtaining a copy.

Mr. Maxson stated that he left his photographs at home and requested permission to go home to get the photographs and the board agreed, so he left the meeting at 7:53 P.M.

APPROVAL OF MINUTES

Mr. Francy offered the approval of the February 1, 2007 Zoning Board Meeting Minutes, seconded by Mr. Mullen and approved on the following roll call vote:

ROLL CALL:

**AYES: Mr. Braswell, Mr. Francy, Mr. Fox, Mr. Anthony, Mr. Britton,
Mr. Mullen**

NAYES: None

ABSTAIN: None

COMMUNICATIONS

Education Requirements for Board Members

Mr. Mullen spoke about the upcoming seminars and the requirement for board members to attend them.

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Mr. Baxter stated that the applicant's attorney advised him that they are going to appeal the decision that overturned the Boards Approval. He also stated that the Governing Body is considering a change to the Zoning Ordinance which would make it a permitted use. If that happens he presumes that the applicant would then go to the Planning Board for site plan approval. He then explained the appeal process to the board.

The Board had a discussion on this matter with the Board Attorney.

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**ZB#2007-1 Maxson, Richard
Block 64 Lot 20 (222 Bay Avenue)
New Public Hearing
8:16 P.M.**

The Board marked the following Exhibits into evidence:

- A-1: Variance Application, 3-pages;
- A-2: Zoning Permit Application and denial dated 11/20/07;
- A-3: Hand drawn Sketch Layout prepared by applicant;
- A-4: Hand drawn Elevations before and after proposed;
- A-5: Hand drawn Sketch;
- A-6 a-f: Six photographs
- A-7: Polaroid Photograph.

Richard Maxson of 222 Bay Avenue was sworn in.

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

1. He described the layout of his site identifying his house, his garage which is of cement block. He does not park in the existing garage, it's used for storage.
2. His house is small and he has always used the garage for storage.
3. He wants to build up the garage and he is proposing going up seven feet in height for a storage attic. He is not going to add any electric or plumbing to the garage addition but there is existing plumbing and electric in the existing garage.
4. He is not going to have any interior walls within the garage other than insulation on ceiling.
5. The total height of the garage is 14 ½ feet and when he is finished with the vertical addition it will be 21 ½ to the peak.
6. He has no storage space and is need of more storage because he has a very small house.
7. He does not need any additional living space because he lives by himself but he does need additional storage because he is a fisherman and a clammer.
8. He then described how he has to store his out boards and equipment and his son's equipment. He also has motors that are stored outside on his property and if this application were approved they then could be stored inside.
9. He described exhibit A-6 the photos and described his neighbor to the rights garage.
10. He would demolish his existing ice house if this addition is approved.

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11. There is no structure on the neighboring Renner property.
12. There are no close structures to the rear of his property.
13. The garage will not be a habitable structure.
14. He wants to go up eight feet not any less to eliminate the need for cutting the building material. It would also cost more money to make a lower vertical addition.
15. He wants to be able to walk in the proposed addition comfortably and to be able to store stuff in there.
16. He prepared exhibits A-4, A-3 and A-5.
17. He will access proposed attic by building a stairway inside the garage. There will not be any outdoor stairway.
18. He is also a carpenter and wants to be able to work in the space.
19. The height of the existing home on the site is 20-feet and the proposed height of the garage is 21 ½ feet.
20. If he is going to build something, he is not going to build it six feet, he will build it 8-feet. He is not going to cut every two by four, he is not going shave every piece of wall board.

Mr. Mullen explained to the applicant that this is an accessory structure and he is asking for a variance to accommodate storage. He questioned the fact that the garage will be higher than the primary structure.

Mr. Maxson continued his testimony as follows:

21. It will cost him more money to make it six feet verses the proposed 8-feet higher.
22. The existing garage is at ground level and the existing dwelling is elevated 3-feet.
23. The shanty, he has a grinding wheel in it and will take it down if the board requires him to do so.
24. He then described how he will have to pull down all of the rafters and replace them, he will have to put a center beam in for support. So with regard to detail, if approved then he will work out all the details for this project.

Mr. May stated the following:

1. The Board has touched on the height variance and he believes that there is an additional variance required for pre-existing variance due to the size of the accessory structure in relationship to the principal structure which exceeds it by more than 30%.
2. The applicants building coverage calculations are accurate.
3. The 40% maximum percentage of the rear yard occupied is 40% and its only 35% and he is interpreting that to be in within the setback of the rear yard area. He then calculated and found it to be 28% of the rear yard.

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Mr. Maxson continued his testimony as follows:

25. There is another small structure on the property in addition to ice house and shanty, there is a boat locker that is about four by four and he will get rid of that too, if the board approves his application.

26. With regard to water runoff, he will put gutters up which he further explained. He then described the grading of the property.

Mr. May advised the applicant that he needs to promote water away from neighbors property.

Mr. Maxson continued as follows:

27. He described the site and stated that he has never had water runoff problems. His property does have proper pitch to the street. The driveway runs from his property line of the sidewalk all the way to the garage, then there is a paved walkway but there is nothing on the rest of the property but dirt.

Mr. Mullen stated that good construction practice is that you gather the water from your roof and you dump it onto a surface that goes where the city can collect it.

28. He will put gutters onto the new structure and the water will go into the ground and when it gets into the driveway, it will go off the driveway.

Mr. May asked the applicant about getting the water to be directed down the driveway.

Mr. Maxson continued his testimony as follows:

29. The floor of the existing garage is concrete and it has a drain in the floor.

31. If Mr. Green his neighbor were to put an addition on his garage it would not bother him.

30. There is no negative impact for approving this application.

Mr. Mintzer stated that he has a problem with visioning the garage being larger than the house, wider and higher than the house.

Mr. Francy stated that the board can not allow construction that could be converted into residential space which he further explained.

Mr. Braswell asked the applicant about windows.

Mr. Maxson stated that he will put two windows in for natural light, one in each gable.

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The windows would be normal size windows in the gable.

Mr. Mullen stated that it would be beneficial to the character to have more windows, so it does not look like a storage facility. He does agree with Mr. Mintzer in saying the height of the structure being higher than the main house is troublesome. He does not feel that the applicant demonstrated, if it's for storage that he needs eight feet. The fact that he can't turn something eight feet long over is not rational to grant a variance. He could see having a head room condition, he does not have a problem with where you have seven feet or something like it or six feet six inches and also if you treated it so that it had other than a storage looking character, it might be reasonable.

Mr. Mintzer – and at the same time removing the shanty.

Mr. Maxson – its going to look nice. I am going to remove the shanty and the ice house. I will put vinyl siding on the top and leave the bottom of the garage as is except to repaint it.

Mr. Francy asked the applicant about reducing the proposed vertical addition by two and a half feet. He stated that if the applicant is building storage the need for eight foot sidewalls seems to us to allow another use besides storage, down the road. He suggested a five foot sidewall to allow for a seven foot clearance, it's perfectly good storage and gets the height below the house.

Mr. Maxson stated that he will not reduce the proposed height because it will be more work to reduce it and more costly to reduce it.

Mr. Mullen explained the boards concerns to the applicant and stated that he does not think that the board is inclined to approve something that is greater in size than the principal house at such a volume.

The applicant discussed with the board possibilities for reducing the height of the proposed vertical addition to the garage.

Mr. Maxson stated that he can't do this project anyway else because he is not going to have to cut everything to reduce the size.

Mr. Baxter advised the applicant that the board's ultimate decision is going to be to vote for the proposal or against it or for a different height. Those are the three different choices and it really isn't helpful to the process to talk about the construction efforts. He advised that applicant that he needs to inform the board if he wants the board to vote on the application as is or at a lower height, if so what height.

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Mr. Braswell asked if there was an additional entrance to the garage besides the garage door and Mr. Maxson stated that there was a regular door that is off to the side.

Mr. Mason stated that the board could take a vote on the application as is.

There were no members in the public therefore there were no questions or comments from the public.

Mr. Mintzer offered a motion to close the public portion, seconded by Ms. Ryan and all were in favor.

The board then deliberated the application.

Mr. Francy offered a motion to approve the application with the following conditions:

1. Sidewall height of five feet which will net a two foot reduction in the height of the structure.
2. The maximum height of the structure not to exceed 19-feet 6 inches.
3. The ice house, shanty and the boat locker must be removed
4. Drainage – the applicant must collect the rain water and dump it onto its own property.
5. The structure can not be converted into residential use.
6. Two standard windows be installed, one on the north end and one on the south end.

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

ROLL CALL:

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

NAYES: None

ABSTAIN: None

Mr. Mullen advised the applicant that the Board will memorialize a Resolution of his approval at the next board meeting.

COMMUNICATIONS

Mr. Mullen advised the new board members to familiarize themselves with the Zoning Ordinance because those are the laws that the board grants relief from and to also familiarize themselves with the Zoning Board By-laws and the state laws creating the boards and the powers of the board.

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Mr. Baxter discussed with the board the standard of proofs for density variances being less. He stated that he prepared a memo on this matter and it will be distributed in the next meeting packet.

Mr. Mintzer offered a motion to adjourn the meeting, seconded by Mr. Fox and all were in favor.

The Meeting adjourned at 9:37 P.M.

Carolyn Cummins, Board Secretary