

**BOROUGH OF HIGHLANDS
ZONING BOARD OF ADJUSTMENT
REGULAR MEETING
SEPTEMBER 6, 2007**

Mr. Mullen called the meeting to order at 7:36 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 of Adjustment and all requirements have been made. 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. Anthony, Mr. Mullen, Mr. Gallagher, Mr. Britton

Absent: None

Also Present: Carolyn Cummins, Board Secretary
Gregory Baxter, Esq., Board Attorney
Joseph May, P.E., Acting Board Engineer
Amy. H. Sarrinikolaou, P.P.

**ZB#2006-11 Monahan, Gary – Request for 6th Postponement
Block 3 Lot 5 – 74 Portland Road**

Mr. Mullen stated that the Board received a letter from the applicants Attorney requesting another postponement.

The Board had a discussion with regard to the number of times that this application has been postponed.

Mr. Francy offered a motion to dismiss the Monahan application without prejudice and to waive application fees if the application is submitted prior to December 31, 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

Mr. Mullen advised the public that this application will not be heard this evening and that they would receive public notice if the applicant moves forward.

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**ZB#2006-10 Hall, George
Block 116 Lots 12 & 13 – 410 Navesink Avenue**

**Present: Rick Brodsky, Esq., Applicants Attorney
Professional Planner
Professional Engineer
Representative from YMCA**

Mr. Mullen stated that the Governing Body of the Borough of Highlands introduced an ordinance last night which could affect this application.

Mr. Brodsky stated the following:

1. He is aware of the Ordinance that was introduced last night which refers to rehabilitation centers, which is NOT the nature of this application.
2. Opportunity Knox, Inc. is the applicant which has three Trustees that are the members of Opportunity Knox. The Trustees are Douglas Katich, George Hall and Lori Hall.
3. He then described Mr. Hall's various charities.
4. The applicant is seeking relief for the proposed use for a boxing teaching facility for children consisting of a single boxing rink in the building.
5. There are no proposed changes to the exterior of the existing structure.
6. The previous use of the structure was an exotic car shop and prior to that it was a tavern.
7. This building was purchased by Mr. Hall who resides in Middletown, not far from the site.
8. The nature of the relief sought is a "d" variance which is unique in the sense that it's a split zoned property. The zone line between the Commercial Zone and the Residential Zone actually goes through this property, so that a majority of this property is in the H-O Zone in which this use is a permitted use. There is a 25-foot wide portion of the property that sits in the adjacent Residential Zone.
9. The boxing rink is existing which Mr. Hall uses for himself as an accessory to his office use. There is no seating in the facility and it remains unused and Mr. Hall wants to let the kids use the boxing rink.
10. There is no criminal element or juvenile delinquent element. There was language in the initial submission to the board which talked about the fact that it would be open to all types of people.
11. This is the first operation of this type that Mr. Hall has started.
12. The intention of the initial submission was the idea to head kids off who are not connected to other activities from falling astray.
13. Mr. Hall is not an expert in this area other than he enjoys boxing and enjoys charitable giving. He and his wife devote a substantial amount of their time and funding to charitable efforts.
14. The thought was how do we mold a program that we could motivate the use of this facility to children in the area. The thought process of that language in the submission was that it may not be something that attracts the Captain of the Football

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Team, kids of that sort are busy and there not hanging out doing little. So the thought is that if there are kids out there who don't have a connection to school sports, etc , the thought is that if we have some sort of reward system for the use of this facility on the condition that they keep up their grades and not get into trouble.

15. The thought being that the Trustees would receive referrals of kids from the Board of Education, YMCA and Clergy in the area who might identify a kid who has potential but who may be heading the wrong way because they have too much time on their hands and they have not made a connection with sports or other activities.
16. You heard from Mr. Katich that it's a not for profit, there are no fees. Mr. & Mrs. Hall are in agreement to finance the entire thing.
17. There will be no fees, it is by invitation only to children who will satisfy certain criteria with conditions of keeping their grades up and keeping out of trouble or the privilege gets removed.
18. He does not know if the Statement of Operations was submitted to the Zoning Officer.
19. There is no criteria or forces on revenue to be raised or the number of participants.
20. The thought is that there would be no more than 10 kids on the site at any time.
21. There would be a central drop off and pick up location.
22. There would be at least 2 trained Supervisors on site and a Security Guard at all times to ensure that rules are followed.
23. The proposed use is an Athletic Club that is not for pay.

Mr. Mintzer questioned the language that is in the Statement that was given at the last hearing that referred to the type of kids this program is for such as juvenile delinquents.

Mr. Brodsky responded as follows:

24. The thought is that there is no relationship between Opportunity Knox in terms of their ability to due rehabilitation. The thought was to offer an outlet for kids who could potentially get into problems and have a facility for them to go to with a reward system in place.
25. When Mr. Katich was here the last time, he tried to address this terminology and tried to taper it back into a situation that it's not a Rehabilitation Center. If it's necessary to amend the Statement of Operation to state that it's not a Rehabilitation Center then he will do that. The thought was really to have it available for kids in the Highlands Community and surrounding Communities. What Mr. Katich tried to explain at the last meeting is that this clay being molded. Mr. Hall is trying to figure a way to try and get this facility used by someone other than himself.
26. We can amend and make it clear that there is no Juvenile Delinquent Center, that there are no Prisoners. They want it opened up to kids that they believe will benefit from the program before they get into trouble.

Mr. Gallagher stated that after reviewing the last meeting tape Mr. Katich was specific in his testimony that the Coaches would be Life Coaches in addition to Boxing Coaches. He spoke about the difference that Boxing made in Mr. Halls life. The testimony that you are providing today is a big change from what Mr. Katich testified to at the last hearing.

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Mr. Mullen explained that the relief that is being requested for the split zone is may be that this board is starting to feel that it's a "d" variance for the entire site. This variance can be granted to you and someone else comes in and operate an Athletic Club there which he further explained his concerns.

Mr. Brodsky continued as follows:

27. If we have conditions imposed on this site of no more than 10 people at any time.

Mr. Fox wanted to know who would enforce the conditions.

Miss Ryan expressed her frustration with the application and stated that she finds it misleading that she listened to the tapes and read the previous testimony and she has in mind what she think is happening and then she comes here tonight and here something totally different. What is being said tonight is very different than what was previously testified to. There is language in the statement of operation talking about persistent offenders, children that are in trouble. I think that we need more information.

Mr. Brodsky continued as follows:

28. I have Mr. Katich come back in and give that testimony and make revised submissions.

Mr. Fox wanted to know if Mr. Hall could come in and testify. He also expressed his frustration with the difference in testimony and requested that Mr. Hall come and provide testimony.

Mr. Brodsky continued as follows:

29. Yes, he can have Mr. Hall come and testify and he will submit a revised Statement of Operations.

Mr. Mullen stated that given the first paragraph of the Statement of Operations, if this was happening within 300 feet of a school that your child was attending that first paragraph might bring you out as well. So it's a legitimate concern for the people that are requesting information.

The public then applauded at Mr. Mullens comments.

Mr. Brodsky continued as follows:

30. I see the type of ordinance that was written and he sees what the concerns are and he supposes that what we hear from the Planner and when we resolve some of these inconsistencies and he will have a revised statement submitted.

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He is trying to convey to the board that this program is not written in stone, we were trying to tailor something that would work for the site.

Mr. Baxter stated for the record that both Mr. Gallagher and Ms. Ryan listened to the meeting tapes and submitted an affidavit to that effect.

The Board had a discussion with Mr. Brodsky and requested the following:

1. The applicant must obtain an updated Zoning Review from the Zoning Officer which must include the revised Statement of Operation and the board wants a copy of what she reviewed attached to her decision.
2. The applicant must provide Work with Children Compliance.
3. The applicant must provide 501 3-C Documentation.
4. The applicant must be specific of use because this is a use variance.

Mr. Brodsky stated that he would prefer to adjourn tonight and to submit revisions and that he would prefer that this be carried to the November meeting.

Mr. Mullen advised the public that questions from the public will not be taken this evening because there was no testimony given tonight, it was just an overview.

Mr. Francy offered a motion to carry this public hearing to the November 1st Meeting with no further public notice, 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

Mr. Mullen advised the public that the matter will continue at the November 1st Meeting.

Mr. Baxter explained to Mr. Brodsky that if the application is amended then he would have to renotify. So to the extent that the applicant does not need to renotify that is assuming that there is no amendment to the application.

Approval of Minutes

Mr. Francy offered a motion to approve the August 2, 2007 Zoning Board Meeting Minutes, seconded by Ms. Ryan and all eligible board members were in favor.

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

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The Meeting adjourned at 8:30 P.M.

CAROLYN CUMMINS, BOARD SECRETARY