

**Borough of Highlands
Zoning Board of Adjustment
Regular Meeting
December 6, 2007**

Mr. Mullen called the meeting to order at 7:42 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 met. Notice has been posted on the public bulletin board and transmitted to the Courier, The Asbury Park Press and The Two River Times.

ROLL CALL:

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

Absent: Mr. Fox, Mr. Gallagher

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

Mayor O'Neil gave a thank you speech to the Board Members for volunteering their time to sit on the board.

**ZB#2007-7 231 Bay Avenue, LLC – Request to Postpone to Feb. 7th, 2008
Block 63 Lot 19.01 – 231 Bay Avenue**

Mr. Mullen stated that the board received a letter requesting a postponement of this application to the February 7, 2007 meeting.

Mr. Francy offered a motion to approve the request for a postponement of the 231 Bay Avenue, LLC application to the February 7, 2008 meeting, seconded by Ms. Ryan and approved on the following roll call vote:

ROLL CALL:

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

NAYES: None

ABSTAIN: None

Mr. Mullen advised the public that this matter has been postponed to the February 7th meeting and that public notice will be served for this date.

**ZB#2007-8 Morales, Peter – Request to Postpone to January 3rd, 2008
Block 108 Lot 1 – 440-B Navesink Avenue**

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Mr. Mullen stated that the board received a letter requesting a postponement of this application to the January 3rd, 2008 Meeting.

Mr. Mintzer offered a motion to approve the request for a postponement to the January 3, 2008 meeting, seconded by Mr. Braswell and approved on the following roll call vote:

ROLL CALL:

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

NAYES: None

ABSTAIN: None

Mr. Mullen advised the public that this matter has been carried to the January 3, 2008 Meeting and that public notice will be served.

**ZB# 2007-9 Magrans, Michael
Block 46 Lots 2 7& 3 – 111 & 123 Bay Avenue
Application Review & Set P.H. Date**

**Present: Adam Stark, Esq. Attorney covering for Laurence Lutrell, Esq.
Michael Magrans**

Conflict: Mr. Britton

The Board reviewed and discussed the application with the applicant and the following was stated:

1. The Board Members need a copy of the Zoning Officers denial letter which indicates that variances are noted for building coverage, lot coverage, height, FAR and the setbacks are questionable. There are three street frontages indicated in the Zoning Officers letter which everyone disagreed with. There are front yards on Bay and South Second Street and sides yards onto the adjoining lots. There is a use variance requirement for height and FAR. Mixed uses are permitted but there may be a use required. A parking variance may also be required for this application.
2. This site is in the flood plan and this issue needs to be addressed. If the building has to be raised that may affect the height. If the applicant intends to flood proof then the applicant needs to submit evidence.
3. In this zone residential use is an accessory use, they are not a primary permitted use in this zone and the board looks at an accessory as something being subordinate to the uses on the first floor. So this may require an additional use variance for a use other than is permitted in this zone and the applicant needs to address the degree to which the applicant is going beyond the accessory use. Based on the floor area the primary use is residential verses the commercial use.

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4. The Board noticed that there isn't sufficient information to go through a full site plan.
5. The board requested for the use hearing a view from all sides to see how it would fit into the neighborhood.
6. The applicant should have a Professional Planner for the use hearing.
7. The Board advised the applicant that a use variance requires five affirmative votes.
8. The Board advised the applicant that there are issues that have to do with the number of units and how that fits into character of the town or the zone or in comparison to the multi-family zone. How does this compare to the density of the residential system in that neighborhood.
9. The applicant should bring photographs of the site and surrounding area.
10. The applicant must address the parking and he may need to have a Professional provide some testimony about the parking requirements and the parking in this area.
11. The board discussed setting a public hearing date with the applicant and it was decided that February would be best.
12. The Board explained to the applicant that if he decides to change his mind and go through with both the variance and site plan application at the same time they could but that they would have to add that to their notice and submit everything at least 10-days prior to the meeting and to our board engineer as soon as possible.

Mr. Magrans stated the following:

1. They are combining the lots and that they are proposing business use on the first floor with residential above.
2. He is a resident of Highlands and wants to improve our town.
3. He would like to improve what is going on down on Bay Avenue
4. He has reviewed our Master Plan and he tried to come up with something that goes along with the visions of that Master Plan which he further described.
5. He is proposing a mixed use property with roughly 8,000 square feet of retail on the ground floor and two floors of residential above. There would be 10 units and there would be ingress and egress off the site would be off of South Second.
6. They would be demolishing the Breakfast House and Andretta's Restaurant.
7. He wants to bifurcate the use and site plan to reduce cost.
Mr. Stark requested a waiver of the full site plan.
8. The use for the proposal is condo uses.
9. He is asking for a variance of 12 parking spaces for the residential and 12 for the commercial.
10. The issue for them is the requirement of two and half spaces per residential unit and they intend on marketing the residential units to commuters and retirees and they won't have two and a half cars.
11. He is not willing to raise the proposed building and if he can't flood proof it verses raising it then he doesn't want to do this.

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Mr. Baxter explained to the Board that since the Governing Body in not Reorganizing until the night after our January Meeting there will be two board members that terms will have expired and will not be able to sit at the January Meeting. He does recommend that they still come to the January meeting to hear the testimony so that they don't have to listen to meeting tapes later.

Mr. Mintzer offered a motion to schedule this matter for a public hearing at the February 7th meeting, seconded by Mr. Braswell and approved on the following roll call vote:

ROLL CALL:

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

NAYES: None

ABSTAIN: None

Other Business

Delivery of Meeting Packets

Mr. Baxter suggested to the Board that we should ask if the town could deliver the meeting packets to save on postage.

The Board discussed this matter and suggested that the Board Secretary speak to the Borough Administrator about this.

Expired Term for Board Members & Reorganization Meeting

Mr. Baxter again discussed with the Board the fact that there are two board members both Mr. Anthony and Mr. Britton who's terms both expire on 12/31/07 and the fact that the Governing Body won't be reorganizing until after our January Meeting. He again advised both of them that they won't be able to participate at the January Zoning Board Meeting but he still recommended that they come to hear the testimony. Mr. Britton was also advised that he should listen to the meeting tape for the meeting that he missed for the Hall application so that he can become eligible to vote.

Approval of Minutes

Mr. Francy offered a motion to approve the November 1, 2007 Zoning Board Meeting Minutes, seconded by Ms. Ryan and all eligible board members were in favor.

Communications

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

Mr. Mullen stated that the Board received a letter from the applicant's attorney approving the January Meeting date and granting the board an extension of time.

Memo from Borough Clerk RE: Sexually Oriented Business & Rehabilitation Centers

Mr. Mullen stated that the Board received a memo from the Borough Clerk requesting that we add our comments to our annual report.

Stormwater Ordinance O-07-01

Mr. Mullen stated that the board received a letter from the County approving the Borough's Stormwater Ordinance.

Flood Requirements

The Board briefly spoke about the flood ordinance requirements with regard to commercial space and the provision of allowing for flood proofing verses raising the structure.

Mr. May stated that he would speak with the Borough's Flood Officer, Dale Leubner of T & M Associates to clarify the flood ordinance requirements then issue a letter to the board of his findings.

Public Questions

Connor Jennings of 22 Ralph Street questioned the board discussion with regard to the January Meeting and the fact that the board will be short two members due to their term expiring and how that would affect the Hall application.

Mr. Baxter explained that the Hall application will still require five affirmative votes.

Elbert Gallagher wanted to know if Hall can go on if there is a split vote.

Mr. Baxter explained that the board expects to either move forward and try the Hall application at the January Meeting or if they don't the board will dismiss without prejudice. If the application doesn't finish in January then it will continue at another meeting.

Connor Jennings wanted to know if Mr. Hall has been notified in writing that he is to appear in person.

Mr. Baxter - no, we told his attorney.

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

The Meeting adjourned at 9:03 P.M.

CAROLYN C UMMINS, BOARD SECRETARY