

**Borough of Highlands  
Zoning Board of Adjustment  
Regular Meeting  
March 5, 2009**

Mr. Baxter administered the Oath of Office to Ms. Tierney, Alternate #1 Member and Mr. Britton, Regular Member of the Zoning Board.

Mr. Mullen called the meeting to order at 7:45 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 transmitted to the Asbury Park Press and The Two River Times. Notice has been posted on the public bulletin board.

**ROLL CALL:**

**Present: Mr. Braswell, Ms. Ryan, Mr. Anthony, Mr. Britton, Mr. Gallagher,  
Mr. Mullen, Ms. Tierney, Mr. Kutosh**

**Absent: Mr. Fox**

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

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**ZB#2007-7 231 Bay Avenue, LLC  
Block 63 Lot 19.01  
Adjournment**

Mr. Mullen stated that the Board received a letter requesting an adjournment for 231 Bay Avenue, LLC.

Mr. Baxter explained that he has reviewed the two public notice receipts that were required due to a defect and he finds everything to be in order therefor the board can proceed. He also explained that the Board Secretary and Board Engineer did not receive the amendments which must be submitted at least 10-days prior to the hearing.

Mr. Mullen stated that the engineer drawings and the architectural drawings were for two different structures and that needs to be corrected.

Ms. Ryan offered a motion to carry this public hearing to the April 2<sup>nd</sup> Meeting, seconded by Mr. Gallagher and approved on the following roll call vote:

**Borough of Highlands  
Zoning Board of Adjustment  
Regular Meeting  
March 5, 2009**

**ROLL CALL:**

**AYES:** Mr. Braswell, Ms. Ryan, Mr. Anthony, Mr. Britton, Mr. Gallagher,  
Ms. Tierney, Mr. Mullen

**NAYES:** None

**ABSTAIN:** None

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**ZB#2008-7 Domagala, Karol  
Block 21 Lot 16.01 – 90 Highland Avenue  
Public Hearing**

**Present: Karol Domagala**

Mr. Baxter stated that he has reviewed the public notice and finds it to be proper; therefore the board can take jurisdiction on this matter.

The following documents were marked into evidence:

- A-1: Variance Application, 3 pages;
- A-2: Zoning Denial Letter dated 1/10/08;
- A-3: Planning Board Resolution dated 3/11/04;
- A-4: Subdivision Map prepared by R. Stockton dated 11/25/03;
- A-5 a-f: Six color photo's 4 by 6;
- A-6: Portion of Survey blown up with setbacks calculations.
  
- B-1: Board Engineer Review letter dated 11/18/08.

Karol Domagala of 90 Highland Avenue, Highlands, NJ was sworn in.

Mr. Mullen read for the zoning ordinance section 21-98 and explained that the relief that is being sought is for the rear yard setback.

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

1. Mr. Domagala stated that he prepared the setbacks on Exhibit A-6 by measuring the property himself . He measured from the structure to the existing fence and used a measuring tape.

Mr. May stated that he rescaled this based on the 10-foot dimensions and it's about an eleven foot setback now. The board discussed the measurements.

- 2. There is no available land next to his property.
- 3. He is not loosing or adding any parking.
- 4. He described the photos which were marked as exhibit A-5 (a-f).

**Borough of Highlands  
Zoning Board of Adjustment  
Regular Meeting  
March 5, 2009**

5. He is not touching the existing first floor deck which is only 10 feet. The upper level will be 20-feet. He then described Exhibit A-6 to the board.
6. He stated that he did not need a variance for the existing first floor deck and that he has his building permits for the construction of it.
7. There are 2 columns to support the proposed second floor deck.
8. He spoke with his neighbors but they didn't say anything about the proposed.
9. He does not think there will be any negative impact to the neighbors.
10. The house to the left has a second floor deck.
11. The top deck will not exceed the depth of first floor deck but will be wider.

Mr. May explained that it's roughly 11-feet from the rear yard.

Mr. Baxter recapped the proposed rear yard as being no closure in the rear yard than 10-feet where 25-feet is required and there are seven pre-existing non conformities.

Mr. Domagala continued his testimony as follows:

12. He stated that the Planning Board granted approval for a change in lot line to extend his rear yard.
13. There is a difference in grade from adjacent rear property.
14. He has a concrete pad outside the back door.
15. There are two existing doors to go out to the proposed second floor deck.

There were no members of the public present at the meeting; therefore the public questioning and public comment period was closed.

Mr. Braswell offered a motion to approve the application where the sides of the second floor deck don't exceed the sides of the house and that the rear of the deck is no closure than 10-feet to the rear property line and that the pre-existing non-conformities do not change. Seconded by Mr. Gallagher and approved on the following roll call vote:

**ROLL CALL:**

**AYES:** Mr. Braswell, Ms. Ryan, Mr. Anthony, Mr. Britton, Mr. Gallagher,  
Mr. Mullen, Ms. Tierney  
**NAYES:** None  
**ABSTAIN:** None

Mr. Domagala was informed that a Resolution approving the application would be memorialized at the next board meeting.

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**Borough of Highlands  
Zoning Board of Adjustment  
Regular Meeting  
March 5, 2009**

**Approval of Minutes:**

Mr. Mullen offered a motion to approve the February 5, 2009 Zoning Board Minutes, seconded by Ms. Ryan and all were in favor except the Britton and Kutosh who abstained.

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

The Meeting adjourned at 8:26 P.M.

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**CAROLYN CUMMINS, BOARD SECRETARY**