

**Borough of Highlands
Zoning Board of Adjustment
Regular Meeting
February 4, 2010**

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 statements: 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 Two River Times and the Asbury Park Press. Notice has been posted on the public bulletin board.

ROLL CALL:

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

Absent: None

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

**ZB#2009-6 Sendowski, Oren
Block 43 Lot 6 – 30 Shrewsbury Avenue
Request to Carry Completeness Review to March 4, 2010**

Ms. Ryan offered a motion to approve applicants request to carry the completeness review of this application to the March 4, 2010 meeting, seconded by Mr. Fox and approved on the following roll call vote:

ROLL CALL:

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

NAYES: None

ABSTAIN: None

Resolution for Professional Engineering Services & Approval of 2010 Contract

Mr. Mullen stated that the Board Attorney has reviewed this contract.

Ms. Ryan offered the following Resolution and moved in its adoption:

**RESOLUTION AWARDING A NON-FAIR AND OPEN CONTRACT FOR
PROFESSIONAL ENGINEERING SERVICES
TO BE PROVIDED TO THE ZONING BOARD OF ADJUSTMENT
AND
APPROVING 2010 CONTRACT**

WHEREAS, the Borough of Highlands Zoning Board has a need for professional engineering services as a non-fair and open contract to be provided to the Zoning Board for the calendar year 2010 pursuant to the provisions of N.J.S.A. 19:44A-20.5; and

WHEREAS, such professional engineering services can only be provided by licensed professionals and Joseph May, P.E. of the firm of CMX, Inc., is so recognized;

WHEREAS, the Board Secretary has determined and certified in writing that the value of the contract will exceed \$17,500; and

WHEREAS, CMX, Inc. has completed and submitted a Business Entity Disclosure Certification which certifies that CMX, Inc., has not made any reportable contributions to a political or candidate committee in the Borough of Highlands in the previous one year, and that the contract will prohibit CMX, Inc. from making any reportable contributions through the term of the contract; and

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WHEREAS, CMX, Inc., has completed and submitted a Political Contribution Disclosure Form in accordance with P.L. 2005, c271; and

WHEREAS, CMX, Inc., has submitted that attached contract for Professional Engineering services for the calendar year 2009; and

WHEREAS, the Zoning Board has reviewed attached contract for Professional Engineering Services for 2010; and

WHEREAS, certification of the availability of funds is hereby provided by the Chief Financial Officer.

Zoning Board Budget
Account #1151-3757 - \$2,100.00
For the Period of January 1, 2010 through June 30, 2010

Stephen Pfeffer, Chief Financial Officer

WHEREAS, the Local Public Contracts Law N.J.S.A. 40A:11-1 et. seq. requires that notice with respect to contracts for professional services awarded without competitive bids must be publicly advertised;

NOW, THEREFORE, BE IT RESOLVED by the Borough of Highlands Zoning Board as follows:

1. Joseph May, P.E. of CMX, Inc, is hereby appointed as Zoning Board Engineer for the calendar 2009 and contract is awarded for Professional Engineering Services to be provided to the Zoning Board for the period of January 1, 2010 through June 30, 2010 for an amount not to exceed \$2,100.00.
2. The attached Professional Engineering Contract is hereby approved and the Board Chairman and Secretary are hereby authorized to sign the contract.
3. This contract is awarded without competitive bidding as "Professional Service" in accordance with the Local Public Contracts Law, N.J.S.A. 40A:11-5(1)(a) because it is for services performed by persons authorized by law to practice a recognized profession.
4. A copy of the Resolution as well as the contract shall be placed on file with the Board Secretary.
5. The Board Secretary is hereby directed to publish notice of this award as required by law.

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

ROLL CALL:

AYES: Mr. Braswell, Ms. Ryan, Mr. Fox, Mr. Anthony, Mr. Gallagher,
Mr. Britton

NAYES: None

ABSTAIN: None

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**ZB#2009-5 Bay One Nine, LLC
Block 38.01 Lot 13 – 19 Bay Avenue**

Present: Jeffrey Rosen, Esq., Applicants Attorney
Richard Stockton, P.P., Land Surveyor
Matthew Martin, P.E.

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Mr. Mullen explained that this is a continuation of the hearing for this application. He then explained that in the middle of this application the zoning ordinance was amended with regard to this property. The block on which this property sits the zoning changed from a waterfront commercial district to a B-2 Business District. The Zoning Officer then rereviewed this application and has determined that no variances are required so the applicant is here for site plan approval.

Mrs. Cummins stated that Ms. Ryan has listened to the meeting tape of the last hearing and is eligible to vote on this matter.

Mr. Baxter explained that the applicant could have gone to the Planning Board for site plan approval but chose to stay before the Zoning Board. He then explained his January 14, 2010 letter regarding jurisdiction issues.

Mr. Rosen stated that they resubmitted the application to the Zoning Officer and it was determined that this application only requires site plan approval, no variances.

The following documents were marked into evidence:

- A-7: Zoning Permit Application dated January 14, 2010;
- A-8: Stockton Site Plan dated 10/21/09 last revised 1/19/2010;
This replaces Exhibit A-6.
- A-9: Architectural Plans by Anderson Campanella – 1 Sheet;
- A-10: Sketch of Building

Richard Stockton was sworn in and stated the following during his testimony and response to questions from the board:

1. The changes to the plan are basically the parking area in the front on the Bay Ave side they removed one parking space which allows for larger parking area and the stairs will go to the deck.
 3. Three spaces are required and they are providing four, one of which is a handicap space.
 4. They added curbing wall bumper blocks and the handicap parking spot will be paved.
 5. Building - the only change from previous plan shows staircase from front parking lot. Tonight, the stairs will go up from the Shore Drive side.
 6. They propose concrete sidewalk on Shore Drive.
 7. Entrance way from Bay Avenue there is existing concrete apron to remain untouched.
 8. They submitted an application to the Monmouth County Planning Board.
 9. The property is located in Block 38.01 which was recently incorporated into the B-2 Zone. So the zone schedule was revised to reflect new zoning requirements.
 10. There are no known variances.
 11. The floor of the existing structure is located at 12.53 feet and the A-E flood zone requires eleven feet elevation. So the existing and the proposed will be above the flood elevation.
 12. The building would be vertically outside the flood zone.
 13. Public parking is permitted on the north side of Shore Drive. He further explained that it's a one-way street with parking permitted on the northerly side of the street. The bike path occupies a portion of the other side of Shore Drive.
 14. Public Parking is also within 600 feet of this site.
 15. The parking layout is indicated on the first sheet. There is a 24 foot wide ingress and egress on Bay Avenue.
 16. The curb cut location – if it had to slide one foot to the north east, it could So the curb that surrounds that first parking space could be extended and shorten the opening.
- Mr. Mullen preferred this amendment.
17. Access from Shore Drive – the level of the handicap parking will be at the same elevation as deck and the first floor.
 18. Still plan to use first floor for a bike store.
 19. Yes, they proposed crushed stone surface.
 20. He described how bike customers should go into Shore Drive onto the bike path.

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Mr. Mullen stated that crushed stone would require a wider apron to buffer from stones onto sidewalk.

Mr. Stockton continued as follows:

21. The handicap parking will be marked with a sign or paint. Mr. Kutosh expressed his concerns with making it known that it's a handicap parking space and the public not being aware of this.
22. Electric - overhead on pole on Bay Ave.

Mr. Mullen recommended underground.

Mr. Stockton continued:

23. Lighting on site – basically one pole mounted light on center front parking space. Page two shows shielding on lamp. He then further spoke about light fixtures.

Mr. Mullen stated that he believes that it exceeds height of pole limit of 15 feet.

Mr. May – this light needs something to confine light to the site. He wants it shielded from lot 12 on Bay Avenue.

Mr. Stockton agreed and continued his testimony as follows:

24. Change in level from the front deck of 12 ½ to ground level of 10 1.2. So there is a two foot drop and it's his understanding that a rail will be put in on the deck.
25. Chain link fence is proposed.
The Board expressed its dislike for a chain link fence and also wanted some railing to continue from front and for them not to use chain link fence, Mr. Stockton agreed.
26. Landscaping – plantings to buffer to parking area, will be low planting.
27. Signage – no free standing sign proposed at this time.

Mr. May stated the following:

1. He recommends to add curb stops and valve shut offs along Bay Ave.
2. The staircase conflicts with the architectural & site plan, it does not add up.
3. The roof has a three or four foot overhang onto Shore Drive on the architectural plans.
4. Just put timber guardrail verses bumper block.
5. Recommends parking lot be paved verses stoned.
6. Shore Drive only one door with no windows, will be odd looking.

Mr. Stockton continued as follows:

28. Timber guardrail at end of handicap space will look good.

Mr. May stated that a “no parking” sign should be put on building.

Mr. Stockton continued:

Mr. Rosen then stated that the applicant would prefer pavers verses crushed stone.

Mr. May stated that at the northwest corner entrance shift to make it more symmetrical, push curbing toward west.

Mr. Stockton agreed.

Mr. Mullen asked if there were any questions for Mr. Stockton from the public but there were none.

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Matthew Martin was sworn in and stated the following during his testimony and response to questions from the board:

1. He described his professional and educational background as a licensed professional engineer in the State of New Jersey. Board accepted his qualifications.
2. He prepared Exhibit A-8 page two is the grading and utility plan.
3. The site drains from Shore Drive to Bay which exists and the proposed is the same. The site is only less than a tenth of an acre.
4. Anything under one acre of disturbance does not have any storm water requirements. Even if paved lot, still no water issues with site.
5. Stone gets moved, pavers would also look better.
6. Lighting in parking area, he explained the light bulb detail was arbitrarily chosen. They would put any light as per board engineer's request.
7. The removal of chain link fence he has no issue with that.
8. In lieu of guardrail a bumper block he would prefer which he further explained.

Mr. Mullen stated that he would prefer the pavers as originally proposed verses crushed stone.

Mr. May questioned if pavers were used then where would the roof drains be.

Mr. Martin – roof gutters could go to Shore Drive if preferred.

Mr. May asked Mr. Martin if he would consider a recharge for the roof only and that may help avoid that icing condition in the parking lot or Shore Drive is so flat he does not know if Shore Drive is the best solution.

Discussion continued about drainage and both the board engineer and the applicants engineer agreed on a method.

Mr. Martin then spoke about underground electrical would have to be contingent upon electrical company approval.

Mr. Mullen asked if there were any questions from the public for Mr. Martin but there were none.

Robert Dempsey who was previously sworn in stated the following during his testimony and response to questions from the board:

1. He is a self employed masonry contractor.
2. He explained his masonry professional experience.
3. He spoke about the circulation of the property and the flow of the customers will come from Shore Drive area, through handicap area into front. The rear door would be for supply deliveries, some people may park on Shore Drive which is primary entrance for second floor.
4. Not planning on a lot of customer traffic for second floor office. There are just two of them they will work a few hours a day in the office.
5. The lower floor would be retail for a bike rental business.
6. Parking for office – on Shore Drive and if the first floor business is closed then can park in the front.
7. Bike racks will be put in by stairway.
8. Trash will be in the rear of the building.
9. There may be some space in front between curb and building for more bike racks.
10. He has no objection to use something else in lieu of chain link fence.
11. A-10 sketch was submitted by him and marked into evidence. He stated that this is a rendering of what the building would look like.
12. He spoke about how he prefers to put in pavers and said there will still be some drainage. The pavers would be set in stone not in concrete.
13. He stated that he no longer wishes to operate an ice cream parlor in addition to a bike rental shop. He will just have an bike rental shop on the first floor.
14. He stated that no masonry equipment will be parked at the site and there are no employees for the office.

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15. The bottom of the building will be brick veneer and the upper half will be stucco and metal roofing.
16. Heat unit will be upstairs and a/c unit will be under the stairs.
17. The location of meters will be on east side.

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

Christian Lee of 2 Navesink Avenue asked if there was any asbestos.

Mr. Dempsey – no.

There were no further questions or comments from the public.

The public hearing portion was closed.

The Board deliberated.

Mr. Mullen spoke favorably about the application with conditions as discussed he would offer a motion to approve.

Mr. Baxter reviewed all previously discussed conditions that will be placed in the Resolution.

Mr. Braswell seconded Mr. Mullens motion and it was approved on the following roll call vote:

ROLL CALL:

**AYES: Mr. Braswell, Mr. Anthony, Mr. Gallagher, Mr. Britton, Mr. Mullen,
Mr. Kutosh**

NAYES: None

ABSTAIN: None

Approval of Minutes

Mr. Mullen offered a motion to approve the January 7, 2010 Zoning Board Minutes, seconded by Ms. Ryan and approved on the following roll call vote:

ROLL CALL:

**AYES: Mr. Braswell, Ms. Ryan, Mr. Fox, Mr. Gallagher, Mr. Britton, Mr. Kutosh,
Mr. Mullen**

NAYES: None

ABSTAIN: None

Communications:

Variance Expiration Time Period

Mr. Baxter spoke about the Borough's Zoning Ordinance Section 21-53 which states that there is an existing time period for variances.

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

The Meeting adjourned at 9:33 p.m.

CAROLYN CUMMINS, BOARD SECRETARY