

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

Mr. Mullen called the meeting to order at 7:39 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 Two River Times and the Asbury Park Press. Notice has been posted on the public bulletin boards.

**ROLL CALL:**

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

**Absent:** Ms. Tierney

**Also Present:** Carolyn Cummins, Board Secretary  
Debby Dailey, Deputy Clerk  
Greg Baxter, Esq., Board Attorney  
Board Engineer – Not Present

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**ZB#2009-6 Sendowski, Oren  
Block 43 Lot 6 – 30 Shrewsbury Avenue  
Application Review & Set P.H. Date**

**Present:** Martin A. McGann, Esq., Applicants Attorney  
Carlos Bonilla, P.E., Applicants Engineer

Mr. McGann stated that this is an application for the construction of a new single-family home. He explained that there was some confusion with regard to the Zoning Ordinance for this property. So he will be seeking an interpretation of the correct zoning standards then proceed with a hearing for variances.

The Board briefly discussed the zoning ordinance and a previous case in this same area with was under the name of Zazzara ZB# 2007-4.

Mr. McGann stated that the standards of the R-2.03 are more favorable verses the R-2.01 standards. He may have to adjust the building coverage and they may need a use variance for the height.

Mr. Mullen suggested that the applicant provide photographs of the subject and surrounding area. He stated that the houses in the subject block with regard to the front yard setbacks will be a determining factor about how this area should be treated. He also informed Mr. McGann to familiarize himself with section 21-84 of the zoning ordinance with regard to a view area. He also requested that an application be made for local flood review.

Carlos Bonella stated that they have a CAFRA Waterfront permit for the docks and the proposed house which is located in the VE Zone. He will look into local flood regulations and application.

Mr. Baxter advised Mr. McGann to include language in the notice that the applicant is seeking an interpretation as well as seeking variances.

Mr. McGann stated that he would notice for both the interpretation and variances.

Mr. Mullen suggested that the applicant look into the challenge of getting into the garage from the street.

Mr. Braswell offered a motion to set this application for a public hearing on April 1, 2010, seconded by Ms. Braswell and approved on the following roll call vote:

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**ROLL CALL:**

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

**NAYES:** None

**ABSTAIN:** None

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

Mr. Mullen read the title of the following Resolution for approval:

Mr. Kutosh offered the following Resolution and moved on its adoption:

3/4/10

**RESOLUTION APPROVING PRELIMINARY AND FINAL  
SITE PLAN APPROVAL FOR  
BAY ONE NINE, LLC**

WHEREAS, the applicant, BAY ONE NINE, LLC (Members: T. R. DEMPSEY and ROBERT DEMPSEY), the owner of property located on Lot 13 in Block 38.01, Highlands, New Jersey (19 Bay Avenue), initially filed an application for use and bulk variances and preliminary and final site plan approval to add a second story addition of 363 square feet for office use, and retrofit the first floor with an addition of 158 square feet for use as a bike shop; and

WHEREAS, while this matter was pending, the governing body of the Borough of Highlands adopted Ordinance O-09-33, which ordinance changed the zoning on the subject parcel, as a result of which change the applicant no longer needed use or bulk variance approval, but only required site plan approval; and

WHEREAS, the applicant was offered the opportunity to re-file and proceed before the Planning Board of the Borough of Highlands or to continue with the hearing before the Highlands Zoning Board of Adjustment, and the applicant chose to remain and complete the case before the Zoning Board; and

WHEREAS, all jurisdictional requirements have been met, and proper notice has been given pursuant to the Municipal Land Use Law and Borough Ordinances, and the Board has jurisdiction to hear this matter; and

WHEREAS, the Board considered the application at public hearings held on December 3, 2009 and February 4, 2010; and

WHEREAS, the Board heard the testimony of one of the principals, ROBERT DEMPSEY; together with his experts, RICHARD STOCKTON, Professional Planner and Surveyor, and MATTHEW MARTIN, Professional Engineer; and

WHEREAS, no one else appeared or gave testimony, either in favor of or in opposition to the application; and

WHEREAS, the applicant submitted the following documents in evidence:

- A-1: Variance application (3 pages);
- A-2: Zoning permit application;
- A-3: Flood plain review application with elevation certificate, approved (2 pages);
- A-4: 6/17/07 Survey by RICHARD STOCKTON;
- A-5: Elevation drawing prepared by members of the applicant LLC;
- A-6: 10/21/09 Site plan by Richard Stockton, revised 11/19/09, and subsequently replaced by Exhibit A-8;
- A-7: 1/14/10 Resubmitted zoning permit application;

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- A-8 10/21/09 Site plan by Richard Stockton, last revised 1/19/10, which replaces Exhibit A-6 (3 pages, of which pages 2 and 3 were prepared by Matthew Martin, of Scope Engineering, on 1/20/10);
- A-9 Architectural plans prepared by Anderson Campanella Architects;
- A-10 Sketch by Jay Anderson, Architect, depicting how the building would look.

AND, WHEREAS, the following Board exhibit was also marked into evidence:

- B-1: 12/3/09 Board Engineer review letter by Joseph May;

WHEREAS, the Board, after considering the evidence and testimony, has made the following factual findings and conclusions:

1. As a result of the enactment of Borough Ordinance O-09-33, there is no longer any need for the Board to act on the original application for use and bulk variance relief.

2. The applicant originally proposed to use the downstairs portion of the building as an ice cream store and/or bike rental shop. During the February 4, 2010, hearing, the applicant testified that there was no longer any intention to use the property as an ice cream store. Rather, the intention is to use it for bike rental only.

3. The applicant further proposes to add a second story office addition, which will be used for a masonry contracting business which T. R. DEMPSEY and ROBERT DEMPSEY operate as co-owners. They are cousins to each other. There will be two employees at most (being each of them), with no secretary or any other employee.

4. The downstairs portion is intended to have one or two employees; and, in all likelihood, will be a seasonal operation.

5. The property to the immediate west is the Sugar Shack bar. The property to the east is currently rented as an office. Diagonally across the street on Bay Avenue is a marina. Directly across the street on Bay Avenue is an apartment complex.

6. There is significant public parking down the street, within 600 feet.

7. The applicants currently operate a masonry equipment business in Long Branch. This property, however, will not house any equipment, and will only be used, on the second floor, as an office where the two LLC members may be in a few hours per day.

8. The planned access to the second floor will be from the Shore Drive side of the property. This property has two frontages, both on Bay Avenue and on Shore Drive.

9. The primary entrance for parking will be off of Bay Avenue, with a parking lot containing three parking stalls. There will be an additional handicapped parking space, which is accessed from the Shore Drive portion of the property.

10. Between the first and second nights of hearings, the plans changed, largely because of the board's comments at the prior meeting and the enactment of Ordinance O-09-33 by the Highlands governing body.

11. The handicapped parking space will be on the same level as the first floor level of the building. Access will be from the handicapped space along a deck (facing the Bay Avenue entrance).

12. The ordinance requires three parking spaces. The proposed plan has four parking spaces.

13. Around the handicapped parking space there will be added curbing, a wall and bumper block. The handicapped space will be paved.

14. The parking lot on the Bay Avenue side will have pavers. The plans regarding the Bay Avenue parking lot shall be changed to enlarge the paver parking area in the northeast quadrant of the property by extending the "inverted L". Pavers are preferred for several reasons: Easy clearance of the parking lot, bike travel, pedestrian travel, water percolation through the pavers, and general aesthetics.

15. There will be a new concrete sidewalk installed along Shore Drive.

16. The existing sidewalk and curb cut on Bay Avenue will remain.

17. There is existing water service and a sanitary sewer line.

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18. The applicants applied to the Monmouth County Planning Board for approval approximately ten days prior to the second hearing date, though they have not yet received a reply. This approval shall be subject to the approval of the Monmouth County Planning Board.

19. The floor level of the existing structure is at elevation 12.53 feet, which is above the base flood elevation required of 11 feet. The property is in the AE flood zone. As a result, no flood review is required.

20. The general intention is that bikes will go out from the building to the Shore Drive side of the property, probably through the area alongside the handicapped parking space. Pedestrian traffic into the store is anticipated to favor the same pathway.

21. There is electric utility service overhead from a pole on Bay Avenue; however, both the applicant and the Board desire the electric service to be underground, if acceptable to JCP&L.

22. There is a light stanchion in the middle of the three parking spaces in the Bay Avenue parking lot. That light will need to be shielded, in order to confine the light to the subject property and to avoid a light intensity not to exceed five-tenths (0.5) footcandle along any property line. Additionally, the height of the pole must meet the borough ordinance of fifteen (15) feet in height.

23. The Board is concerned with safety on the new deck to be installed on the Bay Avenue side of the property. A railing across the front of the deck will be installed, which railing will also continue, after a break, at the rear of the handicapped parking space.

24. Landscaping is planned on the Bay Avenue side, in order to give some buffer to the parking area. That landscaping shall be done subject to the approval of the Board or Borough Engineer, using the borough's approved planting list.

25. No freestanding sign is planned.

26. The site will continue to drain as it currently does, running from Shore Drive toward Bay Avenue.

27. Roof drainage, however, needs to be directed into a sump inlet under the handicapped parking space. The sump inlet is to be designed to store a rain volume of one (1) inch of rain per square foot of roof area or a volume of forty-four (44) cubic feet of roof runoff. The inlet is to be designed to retain this volume below the invert of the emergency overflow.

28. The applicant intends to install a brick veneer on the bottom level of the building, with aluminum storefront windows. The upper level is intended to be stucco, with Andersen Windows.

29. The Board commented that the architectural proposal is exemplary. The Board was pleased with the applicant's proposal, and feels it will be a positive addition to the town and to the Bay Avenue and Shore Drive streetscapes in particular.

WHEREAS, the application was heard by the Board at its meeting February 4, 2010, and this resolution shall memorialize the Board's action taken at that meeting;

NOW, THEREFORE, BE IT RESOLVED by the Zoning Board of Adjustment of the Borough of Highlands that the application of BAY ONE NINE, LLC, to add a second-story addition and enlarge the first floor in accordance with their applications and plans submitted be and the same is hereby approved, subject to the following conditions:

A. The changes and additions set forth in this resolution shall be placed on the site plan prior to signature by the Board and its Engineer.

B. The Board's approval is subject to the approval of the Monmouth County Planning Board.

C. The Bay Avenue curb shall be narrowed on the south side to match the length of the first parking space.

D. There will be striped edges on the handicapped parking space entrance.

E. Underground electric service shall be employed, subject to the approval of JCP&L.

F. The light in the middle parking space shall be shielded in order to confine light spillage to the subject property.

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G. The height of the light pole in the preceding item shall not exceed fifteen (15) feet, and the light intensity shall not exceed five-tenths footcandle along any property line.

H. The railing along the front deck shall continue, after a gap, along the rear of the handicapped parking space.

I. There shall be landscaping street-side on Bay Avenue, subject to the approval of the Board Engineer.

J. Any signage shall conform to borough ordinances.

K. The Bay Avenue parking lot will be paved with pavers. The handicapped parking space may either be paved or use pavers.

L. Drainage from the roof shall be into a sump inlet under the handicapped space, the specifics of which shall be approved by the Board Engineer and include the requirements in paragraph 27 herein.

M. There shall be no masonry equipment kept on site.

N. The utility connections shall be under the stairs which go to the upstairs office, and be subject to the approval of the utility companies. The air conditioning compressor and trash receptacles shall also be placed on the south side of the property, below the stairs.

O. The gas service should be located on the south side of the building, subject to the approval of the utility company installation.

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

**ROLL CALL:**

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

**NAYES: None**

**ABSTAIN: None**

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**Approval of Minutes:**

Ms. Ryan offered a motion to approve the February 4, 2010 Zoning Board Minutes, 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**

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

The Meeting adjourned at 7:57 p.m.

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**CAROLYN CUMMINS, BOARD SECRETARY**