

**Borough of Highlands
Zoning Board of Adjustment
Regular Meeting
August 5, 2010**

Mr. Mullen called the meeting to order at 7:34 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, Mr. Britton, Ms. Tierney, Mr. Kutosh, Mr. Mullen

Absent: Ms. Ryan, Mr. Fox, Mr. Anthony, Mr. Gallagher

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

**ZB#2010-2 Metro PCS New York, LLC
Block 108 Lot 2.01 – 450 Hwy 36
Application Review & Set P.H. Date**

**Present: Michael Beck, Esq., Applicants Attorney
Patrick Mostyn, Site Engineer**

Mr. Beck explained that this is a telecommunication carrier and they have a license to operate in this area. The proposal is to collocate on to the existing monopole. He stated that Metro PCS needs to go higher and there will be additional radio and battery equipment at monopole. Because of the height, they don't meet the conditions of a conditional use; therefore they need a use variance. FCC Compliance Expert will testify, Radio Frequency Engineer will have testimony, Site Engineer and Planner testimony will also be given. He stated that the Monmouth County Planning Board has exempted this.

The Board reviewed the application for completeness and the following was stated:

1. The Applicant will contact NJDOT to see if they have any interest in this application.
2. The Applicant will address loss of parking spaces and current uses on the site.
3. The Applicant will request a 200 Foot List from the Borough of Highlands and Middletown.
4. The Applicant will provide structural verification.
5. The applicant should provide site photographs at the hearing.

Mr. Kutosh offered a motion to schedule this application for a public hearing on September 2, 2010, seconded by Mr. Braswell and approved on the following roll call vote:

ROLL CALL:

AYES: Mr. Braswell, Mr. Britton, Ms. Tierney, Mr. Kutosh

NAYES: None

ABSTAIN: None

**ZB 2009-6 Sendowski, Oren
Block 43 Lot 6 – 30 Shrewsbury Avenue
Public Hearing on New Business**

**Present: Martin McGann, Esq., Applicants Attorney
Alina Ferreira, P.E., Applicants Engineer
John Heirich, A.I.A., Applicants Architect
Raymond Liotta, P.P. Applicants Professional Planner**

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Conflict: Ms. Tierney stepped down for this hearing.

Mr. Baxter stated that he has reviewed the public notice and finds it to be proper; therefore the Board has jurisdiction to proceed. He also stated that there is a potential need for a “c” variance for the height and regardless the notice does cover it for sufficient notice.

The following documents were marked into evidence:

- A-1: Variance Application;**
 - A-2: Zoning Permit Denial dated 10/8/09;**
 - A-3: Maser Consulting Plan Entitled “Permit & SESC Plan & Details For Sendowski” Dated 5/27/08 last revised 7/14/10;**
 - A-4: Architectural Plans last revised 4/22/10 prepared by Alina Ferreira;**
 - A-5: Freehold Soil Certification Letter dated 4/1/09;**
 - A-6: CAFRA Permit dated 1/27/09;**
 - A-7: Maser Consulting Letter dated 7/19/10;**
 - A-8: Charles Widdis Survey dated 9/16/05;**
 - A-9: Topographic & Soundings Survey prepared by Maser last revised 5/9/08;**
 - A-10: Zoning Permit Denial dated 5/29/08;**
 - A-11: Large Board Exhibit of Zoning;**
 - A-12a-c: Photographs;**
 - A-13a-c: Photographs;**
 - A-14a-c: Photographs;**
-
- B-1: Board Engineer CMX Review Letter dated 2/23/10;**
 - B-2: Revised Board Engineer East Point Eng. Letter dated 7/29/10;**
 - B-3: Letter from Board Attorney dated 3/5/10 to Martin McGann;**

Mr. Mullen advised Mr. McGann that an application should be made to the local Flood Administrator

Mr. McGann stated that they were here several months ago and there were some issues with regard to the interpretation of the ordinance in reference to the front setback. In light of they did relocate the building from a 20-foot front setback from the railing, so that issue is done. Also we had a height variances and so we have reduced the height of the house to what they feel complies with the ordinance. The other variances associated remain deal with side yard setbacks. They are providing 6.3 ft on the south side and 8.2 ft on the north side and a minimal of 8 plus 12 for a total of 20. They also have a variance for building coverage of 33.7% where 30% is permitted. The building coverage involves a covered porch which will be located to the rear of the property.

Mr. Mullen requested to see to the property survey known as A-8.

Alina Ferreira of 331 Newman Springs Road, Red Bank, NJ was sworn in and stated the following during her testimony and response to questions from the board:

1. She is a Professional Licensed Engineer with Maser Consultants. She then described her professional and education background to the board.
2. She then spoke about Exhibit A-3. The site is located on Shrewsbury Avenue on Block 43 Lot 6. The property contains 8,370 square feet of land. In the gross square footage of the lot she did not use anything above the mean high tide water line, so it’s all upland as the ordinance requires.
3. There is currently a two and a half story existing dwelling on the site with no off street parking.
4. It fronts on Shrewsbury Avenue and the rear faces the river.
5. The property is located in the W-TR Zone and single family homes are permitted.
6. The applicant proposes to demo existing and construct a two-story dwelling with garage and attic along same building line of 8.2 ft north side setback of 6.7 other side.
7. The north side adjoining property has a garage on the property line.
8. Currently, yes – there is a small curb depression along northerly property line.

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9. Patio in rear proposed. Proposed sidewalk from driveway to main house and for outdoor shower area to garage.
10. Existing side setback on north is 15.2 feet which is not the closest portion of the building and the south is 19.4 feet based on Exhibit A-8; however they would be less than that based on the design of the building. She then said she misspoke that it's 8.2 and 12 feet for the existing side yards.
11. There is a privacy fencing on the northerly adjacent property line. There is a chain link fence located on the applicant's property. The chain link is located on the applicant's property. The chain link fence will be removed.
12. With a two car garage and driveway combination that comes to three and a half off street parking spaces which exceeds the required amount.
13. The drainage will remain practically the same except for the roof which drains into river below ground.
14. The property is located in the V-Flood Zone with is 13 foot elevation for the finished floor and their proposal is for 14 feet so it's one foot above the elevation. They will make application and comply with local flood ordinance.
15. There is a 2 1/8 inch oak tree to meet landscape ordinance.
16. The existing utilities will be utilized.
17. Freehold Soil Certification was issued and marked as Exhibit A-5.
18. They received a CAFRA Permit marked as Exhibit A-6.
19. With regard to the Board Engineer Letter dated 7.29.10 they will comply with local fire approval requirements .
20. They are not removing soil/may have to add some.
21. They will replace existing curb depression and make new for driveway.

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

Bob Farrell of North Side asked if they were digging on his driveway.

Alina Ferreira – no.

Mara Neske questioned parking and use of property.

Alina Ferreira – it's a single family home.

Maria Neske questioned why the extra coverage.

Mr. Mullen – you will hear testimony from the Architect.

Kerry Farrell questioned land dimensions.

Alina Ferreira stated that they are not using the river in their calculations.

Smith Wong of 15 Center Street questioned front setback

Alina Ferreira stated that the front yard setback will conform.

Smith Wong questioned the square footage.

Mr. McGann 3. __% over the required. 12.2% is existing building coverage and 33.70% is proposed,.

There were no further questions from the public.

Mr. McGann called John Heirich, License Architect, 415 Route 24, Chester, NJ was sworn in.

1. He is a license Architect in the State of New Jersey and he explained his professional and education background.
2. Exhibit A-4 described main level floor plan with deck and stairs of 1909 square feet. Second Floor described main level floor plan. Second Floor Deck – no stairs. The upper deck is fiberglass 379 square feet of new fiber glass deck for first floor.

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3. He then described the interior layout of the proposed dwelling.
There are eight steps from garage to laundry room. Elevation of slab is 7.25 for garage.
The first floor is 14 feet high.
4. The attic is 456 square feet, 11 foot wide.
5. There are no dormers in the attic , no bathrooms. The attic could be used for storage or office . There is no access from attic from outside.
6. The elevations on sheet 6 show front of house.
7. He speaks about flood breakaway construction.
8. Railing on 3rd floor - no access to outside of 3rd floor outside.

Mr. Mullen questioned by not have a doorway to roof access.

John Heirich continued as follows:

- 9, The height was an issue.
10. They have a breakfast bar areas in the Master and in other area.
11. He then described the interior of the house. The attic is 456 square feet.
and it's about 11 feet wide, very narrow.
12. There is no bathroom plan for the attic. It's just a finished attach that could be used for storage or an office.
13. There is no access from the attic to that flat exterior area.
14. He garage is a minimal width.
14. He spoke about the exterior of the proposed structure.
- 15 The garage is on main level at grade. There is a full floor above the garage. The garage is under a portion of the house that is habitable area.
15. 32 feet height, may go to maximum of 32 ½ feet.

Mr. Kutosh and Mr. Mullen both commented that it was odd not to have access to the roof deck.

John Heirich continued his testimony as follows:

16. He explained that it could be done but would affect building height but they wish that they could do that.
17. He described exterior material that will be used.
18. We need to establish what is the base flood elevation and if there is a freeboard requirement.
- 19 He then referred to the Zoning Officers denial letter Exhibit A-10. He believes that this letter accepts the parking under the structure increases height to 32 ½ feet, So if we have to do the freeboard for the flood then we can.
20. Because we have no basement they must maintain utilities so extra width needed for mechanical room.
21. 1909 first floor habitable space, 4387 total habitable space.

Mr. McGann- the attic is not habitable its storage area.

Mr. Heirich continued his testimony as follows:

22. Character of Neighborhood – same width as houses. Victorian Shingle Style is generic to shore towns. So this is a nice fit into the neighborhood.
23. Hardships – the issue of how the house is preserved from the street without that extra six feet of element added on. Knowing that we had to keep the garage the same width they thought that this was a better fit.
24. He then spoke about photos of a neighboring home marked as Exhibit A-12 a-c.
25. The width of the house provides for a dining room and a great room and that combination and to take advantage of the water view.
26. He then spoke about the mechanicals that are on the first floor.

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

Dr. Farrell questioned the flood regulations for the first floor and the vent flap.

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Mr. Heirich – the flood ordinance calls for a 14 foot first floor, which is six feet above grade. He then spoke about the flap.

Dr. Farrell questioned the breakfast nook area.

Mr. Heirich stated that he doesn't think it's used for rental, it's just a cabinet with a sink. The purpose is to serve guests as a wet bar.

Marian Neski questioned the porch and how far off the bulkhead would it be.

Ms. Heirich – 29 feet is the closest point.

Ms. Neski wants to keep her view which she further explained.

Ms. McGann stated that we comply with the rear yard setbacks and the decks are open so she can see through them

Mr. Heirich stated that the porch is not part of the 1900 square foot on the ground floor. The building coverage is 28.23.

Ms. Neski asked if they are stating the hardship is having to have the utilities on the main floor,

Mr. Heirich – it's a hardship in the fact that you can't put them in the basement

Jolene Huelsenbeck of 25 Shrewsbury Avenue questioned the outdoor shower and wanted to know if it would be enclosed.

Mr. Heirich explained that the shower can't be seen from her house, its recessed back.

Jolian Huelsenbeck asked where the oak tree is being located.

Mr. Heirich – on Exhibit A-3 it's in front of the house, it's a shade tree.

Smitz _____ stated that it's a hardship to build a house of this size. You should shorten house and reduce height. He is afraid that he won't have any more water view.

Mr. Heirich stated that the new house is close to the width of the existing house.

Smitz _____ suggested that the applicant buy the lot next to property then put this house on two lots. He stated that the proposed dimensions of house, beautiful house but too big and will be out of proportion of other houses. He continued to questions size of structure and stated if it were shrunk then it would fit in. He then asked if there would be a pool.

Mr. Heirich – no pool proposed.

Dr. Farrell then asked if he was aware that she has solar panels on her house.

Mr. Heirich – no

There were no further questions from the public.

Mr. Mullen then announced that the board would take a ten minutes recess at 9:33 p.m.

Mr. Mullen called the meeting back to order at 9:33 p.m.

ROLL CALL:

Present: Mr. Braswell, Mr. Britton, Mr. Kutosh, Mr. Mullen,

Absent: Ms. Ryan, Mr. Fox, Mr. Anthony, Mr. Gallagher, Ms. Tierney

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Raymond C. Liotta, P.P. 331 Newman Springs Road, Red Bank, NJ of Maser Consulting was sworn in and stated the following during her testimony and response to questions from the board:

1. She is a license Professional Planner in the State of New Jersey. She then described her professional and educational background to the board.
2. He is familiar with property and zoning ordinance.
3. He prepared testimony outline. Exhibit A-11 Zoning Exhibit on large board he prepared and described. This exhibit shows the property lines for subject block and across the street. It shows building envelopes. He then spoke about them and described photographs marked A-12 a-c and A-13 a-d. A-14a-c.
4. Exhibit A-11 shows the subject property in red. The property is located in lot 6 in block 43. The Zoning District is WTR Zone district. The lot size for purposes of building coverage calculation is 8,378 square feet.
5. The existing use on the property is a two ½ story single-family home. Photograph number one shows the existing dwelling.
6. The proposal is to demolish the existing home and construct a brand new single-family two and a half story structure.
7. The existing home is currently is condemned, there is a sign with a big X on it which can be seen in the photographs.
8. The reason for the photos is to show the neighborhood and they were taken by him on July 14, 2010. He took the photographs to do a land use inventory to try to assess the character of the neighborhood, the types of structures in the neighborhood and the uses.
9. On the Zoning Exhibit he analyzed and categorized on the zoning exhibit all of the lots that are in the subject block which is block 43. He also looked at the block located across the street from the subject property.
10. In terms of looking at the lot areas and the building coverage on these three different blocks in the study area. He started with block 43 and stated the smallest lot is 4100 square feet which is lot 11.03. The largest lot is lot 1 which is 19,400 square feet. For the most part most of the lots in the center portion of the subject block are in 8,200, 8,300 square foot range.
11. He also looked at the building coverage on the structures in the existing block 43. He arrived at the building coverage's by measuring the footprint as depicted from the Monmouth County GIS information and that covers the outline of the physical building itself and any overhang. What he found is that the largest lot at the southern end had the smallest building coverage which was about 12%. and lot 10 had a building coverage of 31%. It ranges anywhere from 12 to 31%. So there is a scattering of different lot coverage's.
12. On his Zoning Exhibit A-11 he has listed on the set back conditions of all of the structures in the zones to compare against what we are proposing.
13. The Building Coverage Requirement is anything 30% or below.
14. There was some discussion about a new home that was being reconstructed on lot 4, there is a photo of it number 6 of second set of pictures and that is at 26% building coverage.
15. He also looked at the two blocks across the street which are block 42 and block 44 and those are somewhat smaller homes on smaller lots. The lots vary in block 42 from 1,400 to 4,300 square feet. The building coverage in that block range from 20% to 50%. They are in the R-2.02 Zone but are in the neighborhood and have an effect on the street scape.
16. On block 44 the lot areas are bigger ranging from 3,800 square feet to 4,000 square feet with the building coverage ranging from 27% to 39%.
17. Block 42 has 2 above 45% and one above 51%.
18. He looked at the 92 Master Plan, 2004 Master Plan and the 2009 Report and the 2010 Land use Amendment. There are a series of objectives that are applicable to this application. There are objectives in the main plan to improve and maintain the existing single-family in the borough. Under Principal Section there was an encouragement that residential development would maintain an existing character of the neighborhood in terms of design and how the streetscape would look and that a design would be supportive by the existing street and infrastructures in the neighborhood. The Land Use Plan has the subject property in the WT-2 Zone in the Master Plan that corresponds to the WTR Zone in the Zoning Ordinance. In terms of upgrading of new structures there was a desire to see that they improve the sites and that they are consistent with the respect to design and character of the neighborhood.

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19. Moving on to the 2004 Goals and Objectives it talks about preserving existing character in that development should be compatible with that design character of the neighborhood and that setbacks of new structures should conform to the existing building setback pattern.
20. The Variances – side yard setback variances and building coverage variance. The Architect covered the building height issue and he does not believe that there is a building height variance required in this application based on the design.
21. Variance justifications – the bulk variances requested here can be characterized as a C-2 or a Flexible Variance C Variances. He does not believe that there are C-1 hardship issues in play here. So C-2 Variances should be granted when the purposes of Zoning are advanced and there is a benefit to the community in that proposals represents a better alternative of the property. If the benefits outweigh the degree of negative impact then the Board can grant the variances.
22. Benefits – the proposed use is permitted in this zone. Various goals and objective of the redevelopment in this area of developing and improving neighborhoods as indicated in the Master Plan, he believes are supported by the application. So he believes that there are objectives in the Master Plan that are proven. Sites of this nature, it's got a dilapidated condemned house that could be considered a potential blight on this neighborhood and he thinks the improvement of this lot with a new structure would have a significant impact, positive impact on the neighborhood in general.
23. Negative Criteria – no detriment to the neighborhood or zone plan.
24. Nine of the Eleven lots have deficiencies which is 81% have existing side yard deficiencies in Block 43. There are others that are bigger than what is being proposed.
25. Block 42 and 44 – thirteen of the 15 lots facing Shrewsbury Avenue which is 86.7% have side yard deficiencies. There are 26 lots in total and 22 or 84% have existing side yard conditions that don't meet the ordinance. Ten or 38.4% have existing side yard conditions on both sides.
26. There is some evidence in the existing pattern of development that don't meet the ordinance requirements.
27. 8ft and 12ft is the side yard requirement. They have 8.2 feet on the north side and 6.7 feet on the south side. The existing setback on the north side is the same as existing. On the south side they are proposing 6.7 feet so we are 5.3 feet short on this side.
28. The adjoining building to the south side property line is 15.8 feet on lot 5.
29. The adjoining building to the north side is 11 feet to the property line.
30. Yes, the removal of the condemned structure would advance the intent of the Zoning Goals and Objectives.
31. Architectural style – seashore flavor.
32. Health & Welfare – removal of the dilapidated building.
33. Lot Coverage they are proposing 55% and the allowed is 70%.
34. It's his opinion that this is consistent with the development pattern and he does not see a substantial detriment to the public good.

Mr. Mullen is concerned with character that it does not seem to fit. They are seeking variances for side yards. The existing is smaller impact on the neighbors.

Mr. Liotta – if the rear porch was not roofed then they would comply. He stated that there are no issues with regard to density.

Mr. Mullen explained that the side yard and rear yard setbacks are the only way to control floor area.

Mr. Liotta – topography in terms of flood regulations dictates building. He also stated that if the house were five or six feet wide would make front entrance appearance out of character. It is his opinion that there is not a substantial detriment to the neighborhood.

Mr. May questioned the driveway change.

Mr. Liotta – could it be that way sure, would it be consistent with new construction, probably no. It's a narrow lot, better to have cars in garage than outside.

Mr. Kutosh suggested to have a one car garage and to park two cars in the driveway.

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Mr. Mullen asked if there are any benefits to this particularly proposed building verses any development on this site.

Mr. Liotta responded that that is not the standard that that they have to meet for a C-2 variances. The standard is, is there a benefit to the general goodness of the neighborhood.

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

Dr. Farrell asked if he considered loss of sun light and loss of breezes and water view to be a detriment to the neighborhood.

Mr. Liotta stated that he is not sure that is occurring.

Dr. Farrell – do you know where my solar panels are located.

Mr. Liotta – yes, if you look at photograph number 8, your solar panels are actually just above the first floor. There at the second floor deck level. If he were going to put solar panels on a house he would put them on the highest roof which Dr. Farrell's are not. The building is going on same line so won't block anything new.

Dr. Farrell explained her view concerns.

Dr. Liotta stated that Dr. Farrell's porch is enclosed and he doesn't see how her view will be blocked.

Unidentified Man questioned the proposed height is being higher than the existing.

Mr. Liotta explained that it's a different design and structure.

Unidentified Man questioned side yard setbacks.

Mr. Liotta explained that the setbacks are to the property line and not to the fence.

Unidentified Man questioned front yard setback.

Mr. Liotta stated that they meet the front yard requirements and the rear yard requirements.

Bob Farrell questioned effect on his solar energy panels.

Mr. Liotta stated that he is not a solar energy expert.

Mr. McGann – Mr. Chairman I have nothing further.

There were no further questions from the public.

Public Comments will be carried to the September 2, 2010 meeting without the need for further notice,

Mr. Britton offered a motion to carry this matter to the September 2, 2010 meeting, seconded by Mr. Kutosh and approved on the following roll call vote:

ROLL CALL:

AYES: Mr. Braswell, Mr. Britton, Mr. Mullen, Mr. Kutosh

NAYES: None

ABSTAIN: None

Mr. Mullen informed the public that this matter will be carried to the September 2, 2010 meeting and that no further public notice will be given.

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Approval of Minutes

Mr. Braswell offered a motion to approve the July 1, 2010 Minutes, seconded by Mr. Mullen and all were in favor.

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

The Meeting adjourned at 10:54 P.M.

CAROLYN CUMMINS, BOARD SECRETARY