

**Borough of Highlands
Zoning Board of Adjustment
Regular Meeting
October 6, 2011**

Mr. Braswell called the meeting to order at 7:41 p.m.

Mr. Braswell asked all to stand for the Pledge of Allegiance.

Mrs. Cummins 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: Ms. Ryan, Mr. Fox, Mr. Anthony, Mr. Gallagher, Mr. Britton,
Mr. Knox, Mr. Kutosh, Mr. Cervantes**

Absent: None

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

**ZB#2011-3 McGavin, P & T
Block 35 Lot 1 – 18 Valley Avenue
Application Review & Set Public Hearing Date**

Present: Mrs. McGavin

Mrs. McGavin stated that she wants to put an in ground pool in her back yard but because of the property being on a corner lot she cannot meet the front yard setback for the backyard.

The Board reviewed the application and the following was noted:

1. The applicant needs a front yard setback and lot coverage variance.
2. The Board Engineer stated that the applicant is proposing Allan Block wall and he does not recommend this type of a wall that would go into the Borough's right of way.
3. The applicant was informed that the Board can't grant approval to build outside of the applicant's property line.
4. The Board requested that the applicant provide photographs of the site and surrounding sites to the public hearing.
5. The applicant was informed that she must publish public notice and notice property owners within 200 feet of the subject site.

Ms. Ryan offered a motion to schedule this matter for a public hearing on November 3, 2011, seconded by Mr. Gallagher and approved on the following roll call vote:

ROLL CALL:

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

NAYES: None

ABSTAIN: None

**ZB#2011-4 Dakoglou, L.
Block 28 Lot 16 – 231 Bay Avenue
Application Review & Set Public Hearing Date**

**Borough of Highlands
Zoning Board of Adjustment
Regular Meeting
October 6, 2011**

Present: L. Dakoglou

Conflict: Mr. Britton stated that he had a conflict of interest on this application.

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

1. He is interested in the property formerly known as Gimpi's on Bay Avenue. It's been vacant for a while and he is here to ask if they could go back to the original use of a restaurant down stairs with residential units upstairs.
2. The Board Attorney stated that this is an appeal from the Zoning Officers determination. Abandonment is the issue that the board will have to deal with. Abandonment in Zoning does not mean the same as abandonment in the dictionary which may benefit the applicant. Abandoned is not defined in the Zoning Ordinance so he suggested that the board use the definition as provided in Zoning law. The applicant will have to give facts as to what happened and when. A lot of this has to do with the intent. Has the intent changed from the time they stopped the restaurant use.
3. The Board Attorney informed the applicant that he will have to address prior approval for an application on this subject site.
4. The property owner will need to provide more consent which states that he consents to the application to overturn the zoning officer's decision.
5. The applicant will have to provide public notice.
6. The Zoning Officer will have to provide his complete file.
7. The applicant may want to add a use variance application along with the appeal.
8. The Board will send letter to Zoning Officer to provide copy of his file and for him to attend the public hearing on this matter.

Mr. Gallagher offered a motion to schedule this matter for a public hearing on November 3rd, seconded by Mr. Fox and approved on the following roll call vote:

ROLL CALL:

AYES: Ms. Ryan, Mr. Fox, Mr. Anthony, Mr. Gallagher, Mr. Knox, Mr. Kutosh, Mr. Braswell

NAYES: None

ABSTAIN: None

**ZB#2011-2 SJD Design, LLC, Block 40 Lots 18.19. and 20 – Shore Drive
Public Hearing on New Business**

Mr. Baxter stated that the public notice is satisfactory however one property owner was not noticed. The property owner is J & F. Pippin of 160 Navesink Avenue. So in terms of the notice he feels the notice is proper except for the missing one. So he suggested that the Board only require the applicant to notice the missing property owner and not everyone. He then informed the board about a property ownership problem with this lot 20.

Mr. Gallagher offered a motion to reschedule this matter for a public hearing on November 3, 2011 and that the applicant only be required the one missing property owner, seconded by Ms. Ryan and approved on the following roll call vote:

ROLL CALL:

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

NAYES: None

ABSTAIN: None

**ZB#2011-1 Compagni – Block 28 Lot 16 – 21 Prospect Street
Public Hearing on New Business**

**Borough of Highlands
Zoning Board of Adjustment
Regular Meeting
October 6, 2011**

**Present: Martin McGann, Esq.
 Joseph Compagni
 Joseph Sacco
 Richard Stockton, P.P.**

Mr. Baxter stated that he has reviewed the public notice and receipts and finds it proper. The board now has jurisdiction to proceed with this hearing.

The following exhibits were marked into evidence during the hearing:

- A-1: Variance Application, 4 pages;
- A-2: Stockton Survey dated 6/9/11;
- A-3: Architectural Drawings, 2 Pages;
- A-4 – A-9: Photographs;
- A-10: Drawing entitled Compagni Residence;
- A-11: Large Colored Drawing;
- A-12: Large Drawing;
- A-13: Photograph;
- A-14: Photograph;
- B-1: Board Engineers Letter dated 9/30/11.

Mr. McGann – this is an application for a front yard setback.

Joseph Compagni of 21 Prospect Street was sworn in and stated the following during his testimony and response to questions from the board:

1. He has lived at the subject site for 16 years with his wife and child.
2. They have not changed the footprint of the structure.
3. He explained that there are dangerous steps to an unusable garage. He stated that the driveway is so steep you cannot drive up it.
4. He is never able to use his driveway because the car always bottoms out at the bottom.
5. He then described the photographs marked as exhibits A-4, A-5, A-6, A-7
6. He spoke about a dangerous fall his wife had on the dangerous stairs.
7. They are unable to get a car into the existing garage.
8. They have two cars and have to park on the street which is very narrow and they want to get their cars off of the street.
9. They want to park one car in the proposed attached garage which is closer to the street.
10. The proposed would be less steep and provide off street parking.
11. He described Exhibit A-8 photo of scratches on driveway apron.
12. He then described Exhibit of A-9 shows cars parked on street and A-10 of street.

Mr. Braswell asked if there were any questions from the public.

Anthony Marcello of 23 Prospect Street urged the board to consider approving this application because the street is very narrow. He then described how steep the slope is. He spoke about lack of emergency access for Prospect Street. He further spoke in favor of the application.

There were no further questions from the public.

Joseph Sacco of 14 Simpson Ave, Atlantic Highlands was sworn in and stated the following during his testimony and response to questions from the board:

1. He is a draftsman and prepared the plans for the proposed.
2. He described Exhibit A-10 the grade of the site. He described putting garage into existing building.
3. The stairs are altered which he described with 12 inch threads which is less hazardous than the existing stairs.
4. He described the existing dwelling.
5. He spoke about the percentage of the slope.
6. Exhibit A-11, he described the proposed new garage and referred to A-11.

**Borough of Highlands
Zoning Board of Adjustment
Regular Meeting
October 6, 2011**

7. The house will have new siding, new stairs and new railing.
8. The deck will remain same size but will be brought up to code.
9. He described A-12 and gave perspective of new garage verses the existing garage.
10. Drainage – they are making slope less steep, less velocity in terms of drainage. They can run leaders under driveway so everything runs toward the street.
11. Installing retaining wall on side so no drainage to neighbors.

No public present for questions.

Richard Stockton, P.P., Licensed Land Surveyor of 17 Avenue D, Atlantic Highlands was sworn in and stated the following during his testimony and response to questions from the board:

1. He is familiar with the subject property as well as the Zoning Ordinance and he prepared the survey.
2. The property is 80 feet wide by 100 feet deep with a bi-level dwelling with a front entry garage at the lower level. The difference in elevation between the existing garage door and the gutter is in excess of 11 feet. The present slope on the driveway is just short of 30%, its 29.7%. The property all drains toward the street.
3. There is a neighbor to the west on lot 15.04 it's occupied and developed into the a flat piece of property with a driveway coming in from the street.
4. The rest of the properties going easterly on Prospect Street are all encumbered by the hill and as such all the driveways that service the houses are steep or have detached garages at street level.
5. He described A-13 photo of one of the two properties further to the east on Prospect Street that shows a detached garage two feet above street level.
6. He described A-14 photo of same situation one lot away.
7. He stated that he measured and A-13 garage is 10.6 feet from garage to right of way. A-14 garage is 5.1 feet from garage to right of way.

Mr. Anthony left the meeting and the board called for a five minutes recess.

At 9:03 P.M. Mr. Braswell called the meeting back to order.

Mr. Baxter stated that Mr. Anthony has left the meeting because he has a conflict.

Mr. Stockton continued with his testimony as follows:

8. They want to bring garage forward to provide access which will require a 9.4 foot front yard setback variance. The lot still complies with all other requirements.
9. The property is unique as well as the other houses to the east. A thirty five foot front setback is rather impractical given the steepness of the hill and it provides a problem in trying to get a driveway up to the house.
10. The proposal drops floor 7 feet lower and moves the front of the garage a little closer to the street and instead of having a grade difference of over 11ft from gutter to garage door we would now be in the neighborhood of 4 feet. This will certainly be a lot safer and will allow the people to use the garage.
11. The present grade of the driveway is 29.7%.
12. RSIS Standards for a special purpose street would be at 15% maximum grade and under certain conditions that amount could be increased to 16% and that would be the street grade. The driveway far exceeds RSIS standards.
13. The proposed provides safer conditions and provides the ability to take two cars that park on the street today and get them off the street.
14. The proposed will provide a safer approach to the dwelling with regard to the stairs.
15. This will provide a visual desirable improvement to structure.
16. Negative Criteria – it's a permitted use in zone and is in conformance with zoning except for the front yard. He is not aware of any negative impact to the neighborhood or zone plan.
17. The curb cut would have to be widened because of the widening of the driveway itself.
18. The proposed will provide two off street parking spaces.

There were no questions from the public.

**Borough of Highlands
Zoning Board of Adjustment
Regular Meeting
October 6, 2011**

Mr. Keady reviewed his letter marked at Exhibit B-1. He stated that the zoning table on plan needs to reflect existing conditions. He stated that a design waiver would be required for the width of the driveway. Item #4 material asphalt needs to be provided on the plan. Item 5 retaining wall needs to be reviewed because it exceeds height.

Mr. Stockton stated that there is no question that there are 35% slopes in the front of the house to the east of the existing driveway. That portion of the slope will not be disturbed other than the rebuilding of the stairs. There is a second area of 35% slopes along the westerly side of the house at the end of the parking area outside of the garage the is existing concrete steps that will have to be lengthened somewhat and lowered to meet the lower grade but again this is an area where there is a walkway their today.

No public comments.

The Board briefly deliberated and understood the steep slope issues and the need to provide off street parking.

Mr. Kutosh offered a motion to approve the application with the conditions discussed, seconded by Mr. Fox and approved on the following roll call vote:

Roll Call:

AYES: Ms. Ryan, Mr. Fox, Mr. Gallagher, Mr. Britton, Mr. Knox, Mr. Kutosh,
Mr. Braswell
NAYES: None
ABSTAIN: None

Approval of Minutes:

Mr. Fox offered a motion to approve the September 1, 2011 Zoning Board Minutes, seconded by Mr. Braswell and approved on the following roll call vote:

ROLL CALL:

AYES: Mr. Fox, Mr. Britton, Mr. Knox, Mr. Cervantes, Mr. Braswell
NAYES: None
ABSTAIN: None

Communications:

Letter from Borough Attorney RE: Bohinski Block 22.01 Lot 1

The Board reviewed and no action was required.

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

The Meeting adjourned at 9:22 P.M.

Carolyn Cummins, Board Secretary