

**Borough of Highlands  
Zoning Board of Adjustment  
Regular Meeting  
April 5, 2012**

Mr. Braswell called the meeting to order at 7:46 P.M.

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

Mrs. Cummins read 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. Kutosh, Mr. Knox, Mr. Gallagher, Mr. Braswell**

**Absent: Mr. Britton, Mr. Cervantes, Mr. Connelly**

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

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**ZB#2011-2 SJD Design, LLC  
Block 40 Lots 18.19 & 20 – Shore Drive  
Approval of Resolution**

Mr. Baxter informed the Board that they had received title work for lot 20 and he is satisfied with the deed.

Robert Susser, stated that the resolution is incorrect. It should state five townhomes equaling 1920 square feet.

The Board Agreed.

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

4/5/12

**RESOLUTION APPROVING USE AND BULK VARIANCES  
AND GRANTING PRELIMINARY AND FINAL SITE PLAN APPROVAL  
FOR SJD DESIGN, LLC**

WHEREAS, the applicant, SJD DESIGN, LLC, is the contract purchaser of the old water plant at the southeast corner of Shore Drive and Miller Street, Highlands, New Jersey (Block 40, Lots 18.19 and 20); and

WHEREAS, the applicant seeks to demolish the existing buildings on the old water plant property and construct five three-bedroom townhomes, each unit to be three levels; 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 application; and

WHEREAS, the Board considered the application at a public hearing on March 1, 2012; and

WHEREAS, the Board heard the testimony of ROBERT SUSSER, project builder; CHARLES SURMONTE, licensed engineer and surveyor; and CHRISTINE COFONE, applicant's planner; and

WHEREAS, JOHN URBANSKY appeared to testify in support of the application, but no persons appeared in opposition to the application; and

WHEREAS, the applicant submitted the following documents in evidence:

A-1 Variance Application (3 pages)

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- A-2 Site Plan Review Application (5 pages)
- A-3 Zoning Permit Denial dated 4/14/11
- A-4 Preliminary and Final Site Plan by Charles Surmonte dated 4/22/11 (5 pages)
- A-5 Architectural Plans by Keith Mazurek dated 5/5/11 (2 pages)
- A-6 Enlargement of A-5
- A-7 Colored enlargement of page 4 of A-4
- A-8 Aerial photo with markings (8.5" X 11");

AND, WHEREAS, the following exhibits were marked into evidence as Board exhibits:  
B-1 9/29/11 Board Engineer review letter by Robert Keady (11 pages);

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

1. The applicant is the contract purchaser of property located in the R-2.03 Zone.
2. The site currently contains the old water plant, which was sold by the borough to NJ American Water Company over 15 years ago and thereafter sold to Duckworth, the current owner.
3. The applicant seeks to demolish the old water plant buildings and associated appurtenances and construct five (5) townhomes of approximately 1920 square feet of finished floor area each. All units will be three-bedroom, with residential areas on the second and third levels, and with a garage and storage area on the ground (first) level.
4. This zone does not permit multi-family housing. As a result, applicant seeks a use variance.
5. Applicant also seeks a use variance for density. The permitted density in this zone is 8.7 units per acre, based on minimum 5,000 square foot lots. The applicant's proposed density is 11.6 units per acre.
6. The owner also seeks the following bulk variances:
  - A. Minimum front yard setback of 19.7 feet on the Miller Street side, where 20 feet is required.
  - B. Building coverage of 30.3%, where only 30% is permitted.
  - C. As to any areas where the height, defined by ordinance, is 31 feet, a variance is requested for the excess 1 foot over the 30 feet allowed by ordinance.

All three bulk variances are for de minimus

deficiencies under the ordinance.

7. A height variance is not required.
8. The applicant will provide at least four (4) parking spaces per unit, which includes two spaces in each garage. Accordingly, the applicant meets the parking requirements of the ordinance, and no variance for the same is required.
9. The ordinance allows maximum lot coverage of 75%. This applicant proposes only 44.4%, which is substantially less than what is allowed.
10. The applicant's proposed lot frontage and lot width substantially exceed the required minimums in the ordinance. Also, the applicant meets with the lot depth and side and rear yard setback requirements in the ordinance.
11. The proposed height of the structure is an average of 27.73 feet, which is less than the 30 feet in height allowed by ordinance. The highest point,

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however, as defined by borough ordinance, will be 31 feet. A height variance is, therefore, required for the excess foot as to any areas where the height, by ordinance, exceeds 30 feet and goes to 31 feet.

12. The applicant proposes a 7-foot wide right-of-way dedication to the borough, which the Board Engineer finds acceptable.

13. Significant demolition will be required in order to remove the old water plant structures.

14. The applicant's engineer testified that there is no active sewer under the proposed building. As to existing walls and fences, the engineer testified that the 18-foot wall along Shore Drive will be removed. The wall abutting Miller Street, and the rear property wall, will remain. The wall on the east side of the property is in disrepair and will be repaired. The applicant will reconstruct the existing eastern wall, currently between 5 feet and 6 feet high, to a new wall of approximately 4.5 feet in height.

15. The fence on Shore Drive will be removed. The fence which covers a portion of Miller Street will also be removed. The other fences on the property will be replaced to the extent they are in disrepair. Also, a fence is required on the retaining wall for safety reasons and will be installed.

16. All existing water caps and meters will be removed, as will all vehicles and dumpsters on the site be removed.

17. The utility pole in the eastern corner of the property on Shore Drive which is closest to the street will remain. The utility pole behind it will be removed.

18. There is no street parking available on Shore Drive, largely because of the fire station across the street. This site will optimize off-street parking.

19. The engineer testified that the trip generation for this type of project, according to RSIS standards, is approximately 30 per day, which is the same amount of trip generation for three single-family homes, which use would be permitted in this zone. There is, therefore, no differential.

20. There will be garbage areas to the side of each driveway for placement of refuse containers for pickup on municipal collection days.

21. No decks or patios are currently planned and, therefore, that issue is not addressed as part of this approval.

22. The applicant's planner testified regarding the properties in the area, and two properties in particular which are within a block in either direction. One is the Horizon property at Route 36 at Miller Street, which contains 10 units on approximately .75 acres. This equates to 13.33 units per acre. The other property has 6 apartments, and is to the north of the subject on an approximately 12,800 square foot lot. This equates to 20.42 units per acre. The applicant's proposal of 5 townhomes calculates out at 11.6 units per acre, where the ordinance permits 8.7 units per acre.

23. The planner further testified that the proposed use fits the fabric of the area, and that the corner lot renders it more suitable for the requested use, especially considering the lack of off-street parking and the fact that a fire station is directly across the street. Additionally, the property is also within a short walking distance of Route 36 and, therefore, any available mass transit. It is also within walking distance of the downtown Highlands area.

24. The planner testified that the following special reasons exist for granting this project, relying upon N.J.S.A. 40:55D-2:

(c) Will provide adequate light, air and open space and to the extent there are any non-compliant items with borough ordinances, those are de minimus. There will certainly be less intensity on this site after this development is constructed as opposed to what would be permitted under the borough ordinance.

(g) "Provide sufficient space in appropriate locations for a variety of... recreational... and open space..."

(i) Promote a desirable visual environment. A long-dormant water plant building will be demolished.

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Accordingly, the special reasons meet the positive criteria required in order to grant this use variance.

25. As to whether there is any substantial detriment, the Board must consider whether any is outweighed by the development of the site. In this case, there is no negative impact on the zone plan or public good. The proposed project will fit nicely in the area. The site can certainly handle the density requested. In fact, based on the 2006 study, three single-family homes would produce three school-age children, while five townhomes would produce only two school-age children.

26. As to the density issue, there will be less lot coverage here. The population and trip generation is equivalent to that which would be generated by a permitted use in this zone, plus there will be less impervious surface coverage.

27. The bulk variance relief sought here as set forth in section 6 of this resolution is met because the proposed use in this application is a better use than the zone permits and a good one for the area.

28. With respect to the Master Plan of 2009, Housing Goal #3 of the goals and objectives will be met, because the neighborhood stability will be preserved. This use is also compatible with the existing buildings on the block. Developing the property for single-family homes would not be as desirable, especially considering the fire station directly across the street.

29. As a consequence of the findings above, the proposed use will not be a substantial impairment to the intent and purpose of the zone plan and zoning ordinance.

WHEREAS, the application was heard by the Board at a meeting on March 1, 2012, 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 SJD DESIGN, LLC to demolish the existing water plant buildings and construct five townhomes, as reflected on the applicant's plans be and the same is hereby approved. Use variances are hereby granted for the multi-family use set forth herein and for the density, as requested. Bulk variances are hereby granted for front yard setback, building coverage and height, as set forth in more detail in section 6 herein.

AND BE IT FURTHER RESOLVED that preliminary and final site plan approval are hereby granted, on condition that the applicant comply with the following terms of the Board Engineer's review letter (Exhibit B-1): A-1 through -5; B-1,-3 and -6; C-2 through -6; D-1 through -9; E-1 through -3; and F-1 through -8;

AND BE IT FURTHER RESOLVED that this approval is further conditioned upon the following:

- A. A 7-foot right-of-way will be deeded to the borough.
- B. A demolition plan will be submitted by the applicant for approval by the Borough Engineer prior to any building permit issuing.
- C. The wall repair and removal shall be in accordance with the testimony and findings set forth earlier in this resolution.
- D. Taxes shall be current prior to the issuance of any building permits.
- E. All lighting shall comply with borough ordinance standards.
- F. All existing water caps and meters shall be removed.
- G. All vehicles and dumpsters on the site will be removed.
- H. A drainage report shall be submitted for approval to the Borough Engineer, and the applicant's plans shall be revised to reflect all drainage requirements.

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

**ROLL CALL:**

**AYES: Mr. Kutosh, Mr. Gallagher, Mr. Braswell**

**NAYES: None**

**ABSTAIN; None**

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**ZB#2012-1 Perlman, Nadine  
Block 52 Lot 13 – 38 Cornwall Street  
Hearing on New Hearing**

**Present: Nadine Perlman, Applicant  
Robert F. Wickel, P.E.**

Mr. Baxter stated that he has reviewed the notice and publication and finds them to be in order therefore the Board has jurisdiction to proceed.

Nadine Perlman of 131 Chestnut Ave, Atlantic Highlands, NJ was sworn in.

Robert F. Wickel, P.E. of 687 Viscount Drive, Toms River, NJ was also sworn in.

The following documents were marked into evidence:

- A-1: Variance Application;
- A-2: Zoning Officers Denial Letter dated 2/23/12;
- A-3: Survey dated 8/13/04;
- A-4: Overlay of that same survey on 8 ½ by 11 paper with color of proposed dwelling;
- A-5: Two pages of photos;
- A-6: Elevation Certificate dated 1/4/12;
- A-7: Structural Evaluation – Foundation Design and Building Supports Report;
- A-8: Five Photos on 8 ½ by 11;
- A-9: Architectural Drawing prepared by Robert Wickel, P.E.
- A-10: Architectural drawings, seven pages dated March 2012
- A-11: Survey with proposed dwelling;
- B-1: Board Engineers Letter dated 3/30/12;
- B-2: Three pages with photos by Robert Keady.

Mr. Baxter then stated that at the last meeting the application was amended to add the correct zone which was R-2.02 in item two of the application.

Ms. Perlman stated the following during her testimony and response to questions from the board:

1. The existing home was damaged from Hurricane Irene. She then described the water damage to the home.
2. She was told by an engineer to demolish the structure and to construct a new one.
3. She then spoke about how the existing home on the site is crooked.
4. She has decided that it would be better to demolish the existing home and build a new one in its place which would meet all building code requirements and that it would also be raised out of the flood zone.

Mr. Wickel stated that the existing house is zero feet from the North Street Property Line.

Ms. Perlman continued as follows:

5. She said the proposed left side yard setback will be two feet.
6. The existing fences are all coming down even the stockade fence on the left side which is over her property line. If the neighbor to the left wants the stockade fence to remain it can remain.
7. The existing structure sits on the North Street side of the property . The proposed home will move in 16 feet from property line, which is an improvement.
8. The front of the home is currently on Cornwell Street and the new front will remain on Cornwell St.
9. The fence on the front has been removed along with debris and no fence is being proposed to replace it.
10. The entire structure, including foundation and footings will be removed.
11. The house to the right is about 3 feet off the line and the proposed would make it five feet between structures.
12. She will do six and four feet side yard setbacks if the board requires.

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13. Variances – side yard six and eight feet required and the proposed is six (right side) and four feet (left side), building coverage of 44% where 33% is permitted and front yard setback on North Street for 14 feet and Cornwell Street 16 feet where 20 is required.
14. She explained that reducing size of house would not be feasible to build.
15. The applicant also requested variances for the preexisting conditions of lot area of 2,100 square feet, where 4,000 square feet is required, frontage of 30 feet where 50 feet is required and lot depth of 70 feet where 75 feet is required.

The Board took a break at 8:39 p.m. and returned at 8:46 p.m.

Ms. Perlman continued and described the size of the existing home verses the proposed and stated that a height variance is not needed. She also spoke about the utilities and said she may have to replace the water main.

Mr. Keady – if replacing utilities he wants only one street opening.

Mr. Wickel – we will provide details.

Ms. Perlman stated she will comply with all comments in Board engineer's letter.

Mr. Wickel then described his professional background to the board.

Ms. Perlman stated the front yard on Cornwell Street will conform with all houses on the street so she gets relief. The North Street setback of 16 feet where 20 feet is required. She explained how she needs two extra feet to increase room sizes.

Public Questions - none.

Public Comments.

Georgeanna Horn of 29 North Street was sworn in and stated that she feels that the proposed house is way too big for this lot. She further expressed her objection to the approval of this application and also stated that the driveway should be on Cornwell Street not on North Street.

There were no further comments from the public; therefore the public portion was closed.

Mr. Baxter recapped the required variances and conditions discussed during hearing and the need for revised plans.

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

**ROLL CALL:**

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

**NAYES: None**

**ABSTAIN: None**

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**Approval of Minutes:**

Mr. Gallagher offered a motion to approve the March 1, 2012 Zoning Board Meeting Minutes, seconded by Mr. Knox and approved on the following roll call vote:

**ROLL CALL:**

**AYES: Mr. Fox, Mr. Kutosh, Mr. Gallagher, Mr. Braswell**

**NAYES: None**

**ABSTAIN: None**

**The meeting adjourned at 9:31 p.m.**

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Carolyn Cummins, Board Secretary

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