

**Borough of Highlands
Zoning Board of Adjustment
Regular Meeting
May 3, 2012**

Mr. Braswell called the meeting to order at 7:42 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 bulletin board.

ROLL CALL:

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

Late Arrival: Mr. Connelly arrived at 7:56 P.M.

Absent: Mr. Gallagher, Mr. Cervantes

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

**ZB#2012-2 Ohliger, Eileen
Block 76 Lot 1 – 47 Barberie Avenue
Application Review & Set Public Hearing Date**

Present: Beth Fitzpatrick, Power of Attorney for Applicant

The Board reviewed the application with Ms. Fitzpatrick.

Mr. Baxter has concern with lot line. According to the survey there is no line between properties on Seadrift & Barberie Avenue. Based on survey it looks like one lot.

Ms. Fitzpatrick stated that the property on Cheerful is lot 1 and she understands that it does look like one property on the survey.

Mr. Baxter suggested that the applicant obtain an updated survey and if the updated survey does not separate the properties then the applicant would need to apply for a subdivision.

Ms. Fitzpatrick – the survey is wrong, there is a garage and two sheds in the rear.

Mr. Braswell – the applicant can get new survey and bring to the meeting.

Mr. Keady further spoke of concerns that the lots were one property.

The board stated that ownership of the lots needs to be identified.

Mrs. Fitzpatrick stated that she will speak with the applicant about doing a title search and updated survey.

Mr. Connelly arrived to the meeting.

The Board deemed the application incomplete and requested that she come back to the next meeting with the additional documents for another application review.

Mr. Kutosh offered a motion to deem the application incomplete and to schedule another review at the June Meeting, seconded by Ms. Ryan and approved on the following roll call vote:

**Borough of Highlands
Zoning Board of Adjustment
Regular Meeting
May 3, 2012**

ROLL CALL:

AYES: Ms. Ryan, Mr. Fox, Mr. Britton, Mr. Kutosh, Mr. Knox,
Mr. Connelly, Mr. Braswell

NAYES: None

ABSTAIN: None

**ZB#2012-1 Perlman, Nadine
Block 52 Lot 13 – 38 Cornwall Street
Approval of Resolution**

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

5/3/12

**RESOLUTION APPROVING BULK VARIANCES
FOR PERLMAN AT 38 CORNWELL STREET**

WHEREAS, the applicant, NADINE PERLMAN, is the owner of a single-family home at 38 Cornwall Street, Highlands, New Jersey (Block 52, Lot 13); and

WHEREAS, the owner filed an application to demolish the existing flood-damaged single-family home and construct a new single-family residence; 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 April 5, 2012; and

WHEREAS, the Board heard the testimony of the applicant, NADINE PERLMAN; and her engineer, ROBERT F. WICKEL II; and

WHEREAS, GEORGEANNA HORN, a neighbor across the street on the North Street side of the property appeared in opposition to the application, her concerns being with the size of the proposed new house and its traffic generation; and

WHEREAS, the applicant submitted the following documents in evidence:

- A-1: Variance application (2 pages);
- A-2: Zoning officer denial of 2/23/12;
- A-3: 8/13/04 Survey by Daniel E. Parker;
- A-4: Portion of A-3 survey, with overlay;
- A-5: Two pages of 4 photos each;
- A-6: Elevation certificate by William Zieman, Jr. dated 1/4/12 (2 pages);
- A-7: Structural evaluation report by Robert F. Wickel, II dated 2/7/12 (1 page, with 3 pages of pictures);
- A-8: Five photos on 8.5" X 11" paper;
- A-9: Architectural drawings by Mr. Wickel dated March 2012, with cover letter of March 1, 2012 (3 pages, plus letter);
- A-10: Replaces Exhibit A-9 with architectural drawings of 7 pages dated March 2012;
- A-11: Survey of proposed dwelling, superimposed on survey.

WHEREAS, the following exhibits were also marked into evidence:

**Borough of Highlands
Zoning Board of Adjustment
Regular Meeting
May 3, 2012**

B-1: Board engineer's review letter dated 3/30/12

B-2: Three pages of 4 pictures per page (except page 3), by Board Engineer.

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

1. The applicant is the owner of property located in the R-2.02 Zone, where single-family homes are permitted.

2. The site currently contains a two-story single-family home fronting on Cornwell Street, but also having frontage on North Street.

3. The existing home was damaged in the hurricane, as a result of which the home took on a great deal of water.

4. The homeowner attempted to have the property repaired. Unfortunately, the footings and piers have been damaged, the flooring has been destroyed, and the house is crooked.

5. As a result of the structural damage, the homeowner decided that it would be better to simply remove the house and build a new one in its place.

6. Initially, the homeowner attempted to obtain plans for repairing the home; however, two of the engineers with whom she consulted told her that repair was not advisable, and the home should be demolished.

7. The reconstruction of the home will raise it out of the flood plain.

8. The property currently virtually sits on the North Street side of the property. The proposed replacement home will move in 16 feet from the property line, which is a substantial enhancement to the North Street streetscape.

9. The stockade fence on the left (western) side of the property is over the property line and will be removed. If, however, the neighbor to left (west) wants it to remain, since it is on the neighbor's property, it will stay.

10. The front of the home is currently on Cornwell Street, and the new front will remain on Cornwell Street. Initially, there was a fence on the Cornwell Street side, which has been removed, along with quite a bit of debris. No fence is proposed to go in its place.

11. There is a gate on the western side of the house, facing the North Street side. It will be removed.

12. The applicant proposes to remove the entire structure, including the foundation and footings.

13. The neighboring home to the east is approximately 3 feet from the subject property line. The proposed addition would make it 5 feet between structures.

14. The Board was concerned with building a new house so close to the eastern property line and neighbor, when there is a reasonable amount of vacant space to the left (west) of the house. As a result, and during the hearing, the property owner amended her request and plans (which still need to be noted accordingly) to provide for a 4-foot side yard on the left (western side), and a 6-foot side yard on the right (easterly side).

15. The applicant has 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.

**Borough of Highlands
Zoning Board of Adjustment
Regular Meeting
May 3, 2012**

16. The applicant also seeks new variances for side yard setbacks of 6 feet on the east and 4 feet on the west, where 6 feet and 8 feet, for a total of 14 feet, are required; building coverage of 40%, where 33% is permitted; and a front yard setback on the North Street side of 16 feet and on the Cornwell Street side of 14 feet to the dwelling, and 8 feet to the proposed deck, where 20 feet is required.

17. The old house was approximately 23+ feet in width. The new home will be 20 feet in width, thereby providing for a thinner home on a relatively narrow lot.

18. The existing structure is made up of approximately 1,022 square feet (622 s.f. on the first floor, and 380 s.f. on the second floor); while the new structure proposes to have 800 square feet on each floor, for a total of 1,600 square feet.

19. The property will provide for four parking spaces---two in the garage and two exteriorly. The ordinance requires two parking spaces, as a result of which no parking variance is needed.

20. No height variance is sought, since the new structure will comply with the height ordinance.

21. The air conditioning and furnace will both be in the attic. The condenser will be above the garage door in the rear, though it will be located one foot higher than shown on the submitted plans.

22. Any cutting into the roadway will be done in such a way that there is only one patch in the roadway for all utilities. The applicant's plans will be revised accordingly.

23. Requirements C-1 through C-6 of the Board Engineer review letter are acceptable to the applicant and will be complied with.

24. The North Street driveway will be pervious, according to the applicant's testimony, however the apron will be concrete.

25. The distance in from the North Street side, for the new home, is a substantial improvement to the existing condition.

26. The Board considered the neighbor's objection regarding traffic impact and rejects those concerns as being unrealistic. This is a residential neighborhood, with this property being a single-family home. There is, therefore, no reason for the Board to make its determination based upon traffic considerations.

27. The objector also raised questions regarding the size/height of the house. In looking at the streetscape and listening to the testimony, however, it appears that many of the houses between Cornwell and North Streets are two stories in height. As a result, this one will not be any different.

28. This application may be considered under N.J.S.A. 40:55D-70c(1) or 70c(2). As to the former, the property is narrow, which is not that unusual in that area of town. As an existing single-family home site, the property is entitled to continue to be developed as a single-family home. As to the latter, the proposed rebuilding of the home would result in the Municipal Land Use Act purposes being advanced by the deviations requested, and the benefits of those deviations would substantially outweigh any detriments.

29. The Board does not see any detriment in granting this application. The current house has numerous problems, all of which will be corrected and be replaced with a new home which has less encroachment on the North street frontage than previously existed. It will also widen the currently-existing side yards, so that there is more space between them and the existing structures to the east and west, thereby providing greater light, air and emergency service access.

**Borough of Highlands
Zoning Board of Adjustment
Regular Meeting
May 3, 2012**

30. As a result, and based upon the findings above, this application, as amended regarding the location of the house on the lot as set forth herein, may be granted without substantial detriment to the public good, as it will not substantially impair the intent and purpose of the zone plan or zoning ordinance.

WHEREAS, the application was heard by the Board at its meeting on April 5, 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 NADINE PERLMAN to demolish and rebuild a single-family home on the subject property is hereby approved; and variances are hereby granted for the preexisting conditions of lot area of 2,100 square feet, where 4,000 square feet is required; lot frontage of 30 feet, where 50 feet is required; and lot depth of 70 feet, where 75 feet is required; and for the additional following variances: side yard of 4 feet on the westerly side, where 8 feet would be required; building coverage of 40%, where 33% is permitted; and front setbacks of 16 feet on North Street and 14 feet on Cornwell Street to the dwelling and 8 feet to the proposed deck, where 20 feet are required.

AND BE IT FURTHER RESOLVED that these variances are granted upon the following conditions:

1. The air conditioning condenser shall be placed one foot higher above the garage door than shown on the plans submitted during the hearing; and the plans shall be amended accordingly.
2. Any cuts into the roadway shall be done in such a way as there is only one patch in the roadway for any utility connections or trenches.
3. The North Street driveway will be pervious, with a concrete apron.
4. The requirements set forth in the technical comments (C-1 through C-6, respectively) in the Board Engineer's review letter of March 30, 2012 (Exhibit B-1 herein) shall be complied with.

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

ROLL CALL :

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

NAYES: None

ABSTAIN: None

Approval of Minutes:

Mr. Kutosh offered a motion to approve the April 5, 2012 Zoning Board Minutes, seconded by Ms. Ryan and approved on the following roll call vote:

ROLL CALL:

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

NAYES: None

ABSTAIN: None

Communications:

Metro PCS vs. Borough

Mr. Baxter informed the board that the Metro suit has been withdrawn

Quick Chek

Mr. Baxter – Quick Chek needs to come back to the board to show the staging area of the remediation equipment. They must serve public notice and submit amended plans for the next meeting.

The board requested 13 smaller sets of site plan and 4 large 11 x 17 sets.

**Borough of Highlands
Zoning Board of Adjustment
Regular Meeting
May 3, 2012**

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

The meeting adjourned at 8:13 P.M.

Carolyn Cummins, Board Secretary

HIGHLANDS.NJ.US