

**Borough of Highlands
Zoning Board of Adjustment
Regular Meeting
August 2, 2012**

Mr. Braswell called the meeting to order at 7:30 p.m.

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

Mrs. Cummins read the following statement: As per requirement of Public Law 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. Britton, Mr. Kutosh, Mr. Knox, Mr. Braswell

Absent: Mr. Gallagher, Mr. Cervantes, Mr. Connelly

Also Present: Carolyn Cummins, Board Secretary
Greg Baxter, Esq., Board Attorney

Quick Chek

Block 108 Lots 1 & 2.01 – Navesink Avenue

Approval of Resolution

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

8/2/12

**RESOLUTION CONFIRMING SATISFACTION OF CONDITION #6
IN 7/14/11 RESOLUTION OF APPROVAL AND APPROVING
LOCATION OF REMEDIATION EQUIPMENT
FOR QUICK CHEK CORPORATION**

WHEREAS, use variance and site plan approval were granted to the applicant, QUICK CHEK CORPORATION, by formal resolution of the Zoning Board dated July 7, 2011; and

WHEREAS, condition #6 of that resolution required that the applicant return to the Board when it knew where the planned location of the remediation equipment was to be, so that the Board could review and approve such location, and confirm satisfaction of that condition; and

WHEREAS, QUICK CHEK made application to return to the Board for the purposes set forth above, and had previously noticed the property owners for a hearing on June 7, 2012, which notice was found to be in proper order by the Board; however, the notice published in the *Asbury Park Press* was published one day late, as a result of which the Board carried the matter to its July meeting, and required the applicant to re-publish, but not re-notice, for that hearing; and

WHEREAS, all jurisdictional requirements have been met, and proper notice has now 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 July 5, 2012; and

WHEREAS, the Board heard the testimony of DEREK JORDAN, of Bohler Engineering; JOSEPH LUTY, a Chemical Engineer with Ground Water & Environmental Services; and RON ROSENBERG, the temporary licensed site professional; and

WHEREAS, no objectors appeared; and

WHEREAS, the applicant submitted the following document in evidence:

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A-22 Remediation Equipment Plan by KEITH CAHILL, of
Bohler Engineering (3 pages), last revised 5/23/12; and

WHEREAS, the Board also entered into evidence its engineer's revised review letter dated June 20, 2012, as Exhibit B-2; and

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

1. The proposed remediation equipment will be located on the southwest corner of the property, on the two parking places closest to State Highway 36.
2. The remediation equipment shall be comprised of a shed and a pad for the equipment, and will be fenced off with bollards in front of the fencing.
3. The fence will be a chain link fence with black slats. It will screen the trailer and the equipment.
4. With the reduction of these two parking spaces, there will now be 37 parking spaces on site, which is still sufficient under the ordinance.
5. There will be no interference with the circulation on site as a result of the installation of the remediation equipment.
6. All piping and servicing will be below ground.
7. Sampling wells will be flush with the pavement and will meet setback requirements.
8. There will be minimal noise, and no light, glare or dust. The minimal noise created by the equipment will not be audible outside 100 feet; and minimally at shorter distances.
9. There will be no smells or odors from the exhaust.
10. MR. LUTY explained how the vacuum blowers pull air in, with another blower injecting air below the water table; then there is an oxidizer outside the enclosure, which burns the vapors. The oxidizer, however, does not make any noise.
11. Safety measures will be put in place, as described in the applicant's testimony. These measures include an automatic shutoff, which shuts the system off within a matter of seconds if any problems arise.
12. Once constructed, this remediation equipment area will look very much like a trash enclosure.
13. There is a stack above the equipment, which is approximately 20 feet in height. There are guide wires, which secure the stack to the equipment.

WHEREAS, the application was heard by the Board at its meetings on July 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 QUICK CHEK CORPORATION to locate the remediation equipment in the southwest corner of the lot, near State Highway 36, as shown on Exhibit A-22, is hereby approved, and the Board finds that the applicant has now met condition #6 in the original approval resolution dated July 7, 2011.

Seconded by Ms. Ryan 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

Resolution Authorizing Professional Engineering Services

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

**RESOLUTION APPROVING A NON-FAIR AND OPEN CONTRACT FOR
PROFESSIONAL ENGINEERING SERVICES
TO BE PROVIDED TO THE ZONING BOARD OF ADJUSTMENT
FOR THE PERIOD OF JULY 1, 2012 THROUGH DECEMBER 31, 2012**

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WHEREAS, the Borough of Highlands Zoning Board has a need for professional engineering services as a non-fair and open contract to be provided to the Zoning Board for the period of July 1, 2012 through December 31, 2012 pursuant to the provisions of N.J.S.A. 19:44A-20.5; and

WHEREAS, such professional engineering services can only be provided by licensed professionals and Robert Keady, P.E. of the firm of T & M Associates, is so recognized;

WHEREAS, the Board Secretary has determined and certified in writing that the value of the contract will exceed \$17,500; and

WHEREAS, T & M Associates has completed and submitted a Business Entity Disclosure Certification which certifies that T & M Associates has not made any reportable contributions to a political or candidate committee in the Borough of Highlands in the previous one year, and that the contract will prohibit T & M Associates from making any reportable contributions through the term of the contract; and

WHEREAS, T & M Associates has completed and submitted a Political Contribution Disclosure Form in accordance with P.L. 2005, c271; and

WHEREAS, certification of the availability of funds is hereby provided by the Chief Financial Officer contingent upon the adequate funding being provided by the Borough of Highlands Governing Body in the Transitional Budget for the second half of 2012t:

Zoning Board Budget
Account #1151-3757 - \$2,100.00
For the Period of July 1, 2012 through December 31, 2012

Stephen Pfeffer, Chief Financial Officer

WHEREAS, the Local Public Contracts Law N.J.S.A. 40A:11-1 et. seq. requires that notice with respect to contracts for professional services awarded without competitive bids must be publicly advertised;

NOW, THEREFORE, BE IT RESOLVED by the Borough of Highlands Zoning Board as follows:

1. Robert Keady, P.E. of T & M Associates is hereby authorized to provide professional engineering services to the Zoning Board for the period of July 1, 2012 through December 31, 2012.
2. This contract is awarded without competitive bidding as "Professional Service" in accordance with the Local Public Contracts Law, N.J.S.A. 40A:11-5(1)(a) because it is for services performed by persons authorized by law to practice a recognized profession.
3. A copy of the Resolution as well as the contract shall be placed on file with the Board Secretary.
4. The Board Secretary is hereby directed to publish notice of this award as required by law.

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

ROLL CALL:

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

NAYES: None

ABSTAIN: None

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Approval of Minutes

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

ROLL CALL:

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

NAYES: None

ABSTAIN: None

Communications:

Mr. Baxter informed the board that he was contacted by Kevin Kennedy, Esq., who requested to appear before the board for an informal. Mr. Baxter advised Mr. Kennedy that the Board does not have jurisdiction to hear in formals.

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

The Meeting adjourned at 7:35 P.M.

Carolyn Cummins, Board Secretary