

**Borough of Highlands
Zoning Board of Adjustment
Regular Meeting
February 7, 2013**

Meeting Location: Highlands Elementary School, 360 Navesink Ave, Highlands.

NOTE: This meeting was not electronically recorded.

Mr. Braswell called the meeting to order at 7:05 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 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. Fox, Mr. Kutosh, Mr. Mullen, Mr. Braswell, Ms. Pezzullo,
Ms. Maresca**

Absent: Mr. Knox, Mr. Gallagher

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

**ZB#2013-1 Markou, George
38 Shrewsbury Avenue – Block 43 Lots 10 & 10.01
Application Review**

**Present: Ken Fox, A.I.A.
G. Markou, Applicant**

The Board reviewed all application documents and the following was stated:

1. Both lots will require a certified 200 foot list for public notices.
2. The Zoning Denial Letter is eligible.
3. The following variances are required: side yard 8 ft/12 ft; building height 32.5 feet permitted and 32.67 is proposed; maximum building coverage 30% allowed and 35.4% is proposed; rear yard 25ft required, where 9.8 feet is proposed.
4. The applicant shall provide photographs of subject properties and surrounding.
5. The applicant is proposing to have a raised house.
6. The new house would not be constructed over the property line.
7. Proposal to remove the existing two-family structures.
8. Need Use variance for two units.
9. The applicant stated that he would bring the building height into compliance.
10. The applicant must show proposed basement on plans.

Mr. Kutosh offered a motion to schedule this matter for a public hearing at the March 7th Zoning Board Meeting, seconded by Mr. Fox and approved on the following roll call vote:

ROLL CALL:

AYES: Mr. Fox, Mr. Kutosh, Mr. Mullen, Mr. Braswell, Ms. Pezzullo, Ms. Maresca

NAYES: None

ABSTAIN: None

Professional Engineering Services Resolution

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

**BOROUGH OF HIGHLANDS
COUNTY OF MONMOUTH**

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**RESOLUTION AUTHORIZING THE AWARD OF A NON-FAIR AND OPEN
CONTRACT FOR PROFESSIONAL ENGINEERING SERVICES
T & M ASSOCIATES**

WHEREAS, the Borough of Highlands Zoning Board has a need for professional engineering services as a non-fair and open contract 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, Eleven Tindall Road, Middletown, N.J. 07748-2792 is so recognized; and

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

WHEREAS, this contract is to be awarded for an amount not to exceed **\$3,600.00** plus reimbursable expenses for Professional Engineering Services provided to the Borough of Highlands Zoning Board for the period January 1, 2013 through December 31, 2013; 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, c 271; and

WHEREAS, certification of availability of funds is hereby provided by the Chief Financial Officer of the Borough of Highlands as follows:

I hereby certify funds are available in the 2013 municipal budget contingent upon adoption:

Current Fund:
1151-3757

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 Council of the Borough of Highlands as follows:

1. T & M Associates are hereby retained to provide professional engineering services as described above for an amount not to exceed **\$3,600** plus reimbursable expenses for the period of January 1, 2013 through December 31, 2013.
2. The contract is awarded without competitive bidding as a "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. The Zoning Board Chairman and Board Secretary are hereby authorized to sign the attached 2013 Contract.
3. A copy of the Resolution as well as the attached approved contract shall be placed on file with the Borough Clerk of the Borough of Highlands.
4. The Borough Clerk is hereby directed to publish notice of this award as required by law.

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

ROLL CALL:

AYES: Mr. Fox, Mr. Kutosh, Mr. Mullen, Mr. Braswell, Ms. Pezzullo,
Ms. Maresca

NAYES: None

ABSTAIN: None

ZB#2012-3 Sandpiper Condo Assoc – Appeal of Zoning Officers Decision

RE: Seastreak Ferry Tiki Bar, 326 Shore Drive, Block 100 Lot 27

Hearings on New Business

Mr. Baxter explained to the board that this is up for an appeal of the Zoning Officers decision for the tiki bar. Since the appeal, both of the attorneys for the applicant and Seastreak came to an agreement to withdraw the appeal subject to conditions which he explained.

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

**RESOLUTION PERMITTING WITHDRAWAL OF APPEAL
WITHOUT PREJUDICE BY SANDPIPER CONDOMINIUM
ASSOCIATION CONCERNING PROPERTY OWNED BY
SEASTREAK, LLC AT 326 SHORE DRIVE (BLOCK 100, LOT 27)**

WHEREAS, the Applicant, SANDPIPER CONDOMINIUM ASSOCIATION, INC. filed an appeal to the Zoning Board of Adjustment, contesting the Borough Zoning Officer's determination to either issue a zoning permit or determine that the Tiki Bar use was permitted and no board approvals were required for the construction and establishment of a Tiki Bar on the property of SEASTREAK, LLC at 326 Shore Drive (Block 100, Lot 27); and

WHEREAS, the appellant, SANDPIPER CONDOMINIUM ASSOCIATION, INC., is represented by JAMES M. SICILIANO, ESQ.; and the property owner, SEASTREAK, LLC, is represented by MARTIN A. MC GANN, JR., ESQ.; and

WHEREAS, the Highlands Zoning Board of Adjustment considered this application during a review proceeding on September 6, 2012, at which time the matter was scheduled for a hearing on October 4, 2012; and

WHEREAS, the October 4, 2012, hearing date was subsequently adjourned, with the consent of both counsel, until November 1, 2012; however, Superstorm Sandy caused the cancellation of all Highlands governmental functions on the scheduled hearing date, resulting in an adjournment of the hearing until December 6, 2012; and

WHEREAS, the aforementioned Tiki Bar structure was destroyed during Hurricane Sandy; and

WHEREAS, proper notice has been given to property owners within 200 feet, and the appropriate form of notice has been published, as required;

NOW, THEREFORE, BE IT RESOLVED by the Zoning Board of Adjustment of the Borough of Highlands that:

1. The appellant's request to withdraw its pending appeal without prejudice, as described above, is hereby granted.

2. Seastreak stipulates that it will not reconstruct the Tiki Bar or operate the Tiki Bar under the prior Zoning Permit issued on 7/5/12 without first applying to the Zoning Officer for a Zoning Permit, on written notice to Sandpiper Condominium Association which will provide the appropriate protection to Sandpiper to be aware of the filing of such an application and their ability to file a timely appeal, should they desire to do so.

3. Should Seastreak once again commence operation of the Tiki Bar, the Appellant shall be entitled to reactivate this appeal without the payment of fees to the appropriate

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Board. Such reactivation without the payment of fees must be done by filing a written request with the Board no later than December 31, 2013. Should such a request be made, the applicant will not be charged another application fee.

5. Following the payment of the Board professionals for any services rendered thus far from the applicant's escrow account, the unused escrow shall be refunded by the Borough to the applicant. If the escrow account is insufficient to cover the Board's professional fees, the applicant shall make timely payment of the same to the Borough.

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

ROLL CALL:

AYES: Mr. Fox, Mr. Kutosh, Mr. Mullen, Ms. Pezzullo,
Ms. Maresca, Mr. Braswell
NAYES: None
ABSTAIN: None

**ZB#2012-5 Camco Resources, Inc.
62 Fifth Street – Block 100 lot 27
Hearings on New Business**

Mr. Baxter explained to the applicant and his Attorney that the Board's recording machine was not operating this evening.

The applicants Attorney requested a moment to speak with his client.

Mr. Mullen informed the board that he kept his personal boat at the marina on this subject property.

Mr. Baxter stated that Mr. Mullen then has a conflict of interest on this application.

The Applicants Attorney wants the board to take jurisdiction on this application this evening.

Mr. Baxter stated that he has reviewed the public notice and receipts and stated that the Board can take jurisdiction on this matter.

Due to the recording machine not working this application was being tabled.

Mr. Fox offered a motion to carry the public hearing on this application to the March 7, 2013 meeting with no further public notice being required. Seconded by Mr. Kutosh and approved on the following roll call vote:

ROLL CALL:

AYES: Mr. Fox, Mr. Kutosh, Mr. Braswell, Ms. Pezzullo, Ms. Maresca
NAYES: None
ABSTAIN: Mr. Mullen

Mr. Braswell informed the public that this hearing would be carried to the March 7th meeting and that no further public notice would be provided.

Approval of Minutes:

Mr. Fox offered a motion to approve of the December 6, 2012 Zoning Board Minutes subject to a correction being made to reflect that Mr. Braswell was present. Seconded by Mr. Kutosh and approved on the following roll call vote:

AYES: Mr. Fox, Mr. Kutosh, Mr. Braswell
NAYES: None
ABSTAIN: None

Mr. Kutosh offered a motion to approve of the January 3, 2013 Zoning Board Minutes. Seconded by Mr. Fox and approved on the following roll call vote:

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ROLL CALL:

AYES: Mr. Fox, Mr. Kutosh, Ms. Pezzullo, Ms. Maresca
NAYES: None
ABSTAIN: None

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

The Meeting adjourned at 8:22 p.m.

Carolyn Cummins, Board Secretary