

**Borough of Highlands
Zoning Board of Adjustment
Regular Meeting
July 18, 2013**

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

Mr. Fox called the meeting to order at 7:30 P.M.

Mr. Fox 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: Mr. Fox, Mr. Kutosh, Mr. Gallagher, Mr. Mullen, Mr. O'Neil, Ms. Maresca

Absent: Mr. Knox, Mr. Braswell

Late Arrival: Ms. Pezzullo arrived at 7:33 P.M.

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

**ZB#2013-2 Hennessey, E. – Request to Postpone Public Hearing
75 Bay Ave – Block 41 Lot 8**

Mr. Baxter explained that he spoke with the applicant's attorney and they were able to locate a 1990 Zoning Board Use Variance Approval Resolution. They no longer need action by the board. The applicants Attorney will confirm with the Zoning Officer that they no longer need approval. They are requesting that this matter be carried to the September 5th Zoning Board Meeting.

Mr. Gallagher offered a motion to carry this public hearing to the September 5th meeting. Seconded by Mr. O'Neil and approved on the following roll call vote:

ROLL CALL:

**AYES: Mr. Fox, Mr. Kutosh, Mr. Gallagher, Mr. Mullen, Mr. O'Neil, Ms. Pezzullo,
Ms. Maresca**

NAYES: None

ABSTAIN: None

**ZB#2013-3 Cireco, Stephen – Request to Postpone Public Hearing
146 Bay Ave – Block 54 Lot 3.01**

Mr. Baxter explained that the applicant has requested a postponement to the September 5th meeting. He also stated that they have not published notice yet.

Board had brief discussion about previous request that the applicant provide transcripts of previous hearing prior to continuation hearing.

Mr. Gallagher offered a motion to carry this to the September 5th meeting. Seconded by Mr. Fox and approved on the following roll call vote:

ROLL CALL:

AYES: Mr. Fox, Mr. Kutosh, Mr. Gallagher, Mr. Mullen, Mr. O'Neil, Ms. Maresca

NAYES: Ms. Pezzullo

ABSTAIN: None

**ZB#2013-7 Jimenez, Betty
3 Private Road – Block 56 Lot 7
Application Review & Set Public Hearing Date**

**Borough of Highlands
Zoning Board of Adjustment
Regular Meeting
July 18, 2013**

**Present: April Jimenez
Betty Jimenez**

The Board reviewed the application and the following was stated:

1. The Applicant wants to rebuild damaged house.
2. The home is not structurally sound and so they need to build new home on same footprint.
3. The Applicant needs to provide photographs of the site at the public hearing.
4. The existing detached garage goes over property line. They will just repair the garage.
5. They park in front of the garage.
6. The applicant must serve proper public notice.
7. The applicant does not have to raise house high enough to provide for parking underneath.
8. The board advised the applicant that they cannot give any approval for garage over property line and advised the applicant to obtain an easement.
9. The Applicant stated that the never had metes and bounds on neighboring lot.

Mr. Kutosh offered a motion to schedule this application for a public hearing on August 1, 2013. Seconded by Mr. Gallagher and approved on the following roll call vote:

ROLL CALL:

**AYES: Mr. Fox, Mr. Kutosh, Mr. Gallagher, Mr. Mullen, Mr. O'Neil, Ms. Pezzullo,
Ms. Maresca**

NAYES: None

ABSTAIN: None

**ZB#2013-8 Luchnik, Allison
86 Washington Ave – Block 28 Lot 3
Application Review & Set Public Hearing**

Present: Allison Luchnick

The Board reviewed the application and the following was stated:

1. The applicant needs a side yard variance for staircase.
2. The applicant wants two egresses.
3. The house is currently being raised.
4. Question #2 on the application is R-2.01 zone.
5. Question #5 is Claddagh
6. Public Notice must be served.

Mr. Gallagher offered a motion to schedule this application for a public hearing on August 11, 2013. Seconded by Mr. O'Neil and approved on the following roll call vote:

ROLL CALL:

**AYES: Mr. Fox, Mr. Kutosh, Mr. Gallagher, Mr. Mullen, Mr. O'Neil, Ms. Pezzullo,
Ms. Maresca**

NAYES: None

ABSTAIN: None

Recess

Mr. Gallagher offered a motion to have a five minute break. Seconded by Ms. Pezzullo and all were in favor.

The Board took a recess at 8:10 P.M. and returned at 8:18 P.M.

ROLL CALL:

**Present: Mr. Fox, Mr. Kutosh, Mr. Gallagher, Mr. Mullen, Mr. O'Neil, Ms. Pezzullo,
Ms. Maresca**

Absent: Mr. Knox, Mr. Braswell

**Borough of Highlands
Zoning Board of Adjustment
Regular Meeting
July 18, 2013**

**ZB#2013-4 Allen, Christopher & Beth
5 Ocean Ave – Block 99 Lot 16
Approval of Resolution**

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

7/18/13

**RESOLUTION APPROVING BULK VARIANCES
FOR ALLEN AT 5 OCEAN AVENUE**

WHEREAS, the applicants, CHRISTOPHER & BETH ALLEN, are the owners of a single-family home at 5 Ocean Avenue, Highlands, New Jersey (Block 99, Lot 16); and

WHEREAS, the property owners filed an application to demolish their existing flood-damaged home and construct a new dwelling to meet the flood hazard regulations; 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 June 6, 2013; and

WHEREAS, the following persons were sworn by the Board: The applicants, CHRISTOPHER & BETH ALLEN; and ROBERT KEADY, Board Engineer; and

WHEREAS, no other persons appeared to ask questions, object or support the application; and

WHEREAS, the applicant submitted the following documents in evidence:

A-1: Variance application (3 pages);

A-2: Zoning Officer denial form dated 5/14/13;

A-3: Building plans prepared by applicants (4 pages);

A-4: Survey by CHESTER DI LORENZO dated 5/6/05;

A-5: Elevation certificate (4 pages) dated 12/4/12, reflecting the property in the A-E Zone;

AND, WHEREAS, the following exhibit was also marked into evidence:

B-1: Board Engineer review letter dated 5/31/13;

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

1. The applicants are the owner of a single-family home located in the R-2.03 Zone.

2. This home was substantially damaged during Super Storm Sandy. As a result of the damage, and considering the age of the structure, the applicants felt it would be more prudent to demolish the existing structure and rebuild.

3. The applicants request the following variances for preexisting conditions: Lot area of 2,500 square feet, where 5,000 square feet is required; lot frontage of 25 feet, where 50 feet is required; and a variance for parking requirement under RSIS (Residential Site Improvement Standards) of two parking spaces is not met, as the property will not have on-site parking, nor does it currently have any on-site parking.

4. The applicants also seek variances for the following: Front yard setback of 9.1 feet, where 20 feet is required (existing front yard setback is 9.2 feet); side yard setback of 3 feet/3 feet, where 6 feet/8 feet are required (currently,

**Borough of Highlands
Zoning Board of Adjustment
Regular Meeting
July 18, 2013**

the setbacks are .2 feet/5.4 feet); and building coverage of 37.58%, where 30% is permitted (current coverage is 34.1%).

5. The proposed use as a single-family home is in conformance with the R-2.03 Zone requirements.

6. This home, as well as many other homes in the vicinity of the subject property, suffered substantial damage during Super Storm Sandy in late October 2012.

7. The need to either rebuild or substantially replace the portions of the current structure has created a severe hardship on the applicants.

8. Of the six variances sought, three are for preexisting conditions (i.e., lot area, lot frontage and parking). Of the three new variances sought, all are *de minimus*. The front yard setback is decreasing .1 feet from the existing situation; the side yard setbacks are improving from a total of 5.6 feet to 6 feet, though still less than required; and the building coverage is increasing only 3.5% from the existing situation.

9. The rebuilding of a very old home, meeting new construction requirements, will be a significant improvement to the lot, as well as to the neighborhood and the borough as a whole. As a result, the applicant's plan will serve the purposes advanced by the Municipal Land Use Law, particularly (b) secure safety on the property from flood and other natural and manmade disasters; and (i) promoting a desirable visual environment.

10. The fact that there was such a large number of property owners who received notice of this application and that none of them appeared to voice any opposition or ask any questions, together with the substantial improvement being made to this property, as shown on the applicants' documents, indicate that the purpose of the Municipal Land Use Law will be advanced, the benefit of the deviations requested substantially outweigh any detriment, and there is no substantial detriment to the intent and purpose of the zone plan and zoning ordinance.

WHEREAS, the application was heard by the Board at its meeting on June 6, 2013, 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 CHRISTOPHER & BETH ALLEN to demolish their existing flood-damaged single-family home and construct a new dwelling in accordance with the plans accepted in evidence be and the same is hereby approved, and variances are hereby granted for lot area (2,500 square feet, where 5,000 square feet are required); lot frontage (25 feet, where 50 feet are required); front yard setback (9.1 feet, where 20 feet are required); side yard setback (3 feet/3 feet, where 6 feet/8 feet are required); and building coverage (37.58%, where 30% is permitted); and a variance for parking as described in paragraph 3 herein.

AND BE IT FURTHER RESOLVED that this approval is subject to the following conditions, all of which are reflected in the Board Engineer's review letter (Exhibit B-1):

Item D-1. Applicants shall submit a sworn statement or an amendment to their plan to reflect whether or not the existing shed is to remain. If the shed is to remain, then this resolution shall be deemed to grant the lot coverage variance for the additional coverage including the shed.

Item D-2. Applicants shall submit a sworn statement or an amendment to their plan to clarify whether or not the existing damaged fencing is to be removed, and applicants shall revise their plans accordingly.

Item D-3. If the pavers are to remain, then they shall be set back 3 feet from all property lines; otherwise a variance for the same will be required.

Item D-4. Applicants' plans shall be revised in order to make certain that the building complies with the ordinance height requirements and the advisory base flood elevations.

Items E-1 and E-2. Applicants' plans shall be revised in accordance with the Board Engineer's directions regarding drainage/grading.

Item F-2. Applicants shall either provide street trees as required by Ordinance 21-65.10B or, if street trees are not appropriate, the equivalent number of trees shall be planted elsewhere on the lot.

**Borough of Highlands
Zoning Board of Adjustment
Regular Meeting
July 18, 2013**

Items G-1 and G-2. Applicants shall comply with the FEMA regulations, the FHA Control rules, the Coastal Permit Program rules and the Coastal Zone Management Act rules, as applicable.

Item H-1. Applicants shall submit a set of signed and sealed architectural plans.

AND BE IT FURTHER RESOLVED that this approval is made subject to approvals by (1) the Flood Plain Administrator; (2) the Construction Official; (3) the New Jersey Department of Environmental Protection; and (4) any other agencies or departments having jurisdiction.

Seconded by Mr. O'Neil and adopted on the following roll call vote:

ROLLCALL:

AYES: Mr. Fox, Mr. Kutosh, Mr. Gallagher, Mr. O'Neil,
Ms. Pezzullo

NAYES: None

ABSTAIN: None

**Steiner, Lisa & Paul
6 King Street – Block 103 Lots 3 & 16
Hearing on New Business**

Present: Paul Steiner

Mr. Baxter stated that he has reviewed the public notice and finds it to be proper therefore the Board has jurisdiction to proceed.

The following documents were marked into evidence:

- A-1: Variance Application;
- A-2: Survey of the property;
- A-3: Foundation Repair Plans, 2 pages;
- A-4: Elevation Certificate dated 7/5/2007;
- A-5: Zoning Denial dated 6/5/2013;
- A-6: Flood Plain Review Application;
- A-7: Architectural Plans by Hilland Hall;
- A-8: Building Photos;
- B-1: Board Engineer Letter dated 7/15/2013.

Mr. Baxter explained that this is a use variance application because there are two structures on one lot. There are bulk variances for pre-existing minimum lot area, lot frontage, front yard setback and side yards of 3.5/0 where 6 & 8 ft. are required, rear yard of 0 where 20 is required and building coverage.

Paul Steiner was sworn in and stated the following during his testimony and response to questions from the board:

1. There is no height variance required.
2. Front house was built as a single family home and the back structure is a cottage that he uses as a guest house.
3. The cottage does have a bathroom and kitchen.
4. The back house was not damaged from Hurricane but the front house had 2 inches of water in it.
5. He is not proposing any changes to the structure.
6. The steps, they will have to go up more steps to raise the structure so they came up with a small deck in front with steps on side of house.
7. If put steps back in same spot they would go out into the street.
8. There will be no roof on the deck.
9. Only one new variance is for the steps, 7 ¾ inches from front yard setback which is greater than existing.

The Board had a discussion on the variance.

**Borough of Highlands
Zoning Board of Adjustment
Regular Meeting
July 18, 2013**

Mr. Keady explained the new variance is an improvement verses existing side yard. The only new variance is for the front yard.

Mr. Baxter question item C-1 of the Board Engineers Letter.

Mr. Steiner agreed and stated that there are no changes to the roof.

Mr. Keady stated that the applicant will need a grading plan and flood approval.

There were no members in the public.

The Board briefly discussed the application.

Mr. O'Neil asked the applicant looked into moving house back of front yard.

Mr. Steiner – no

Mr. Baxter advised the applicant that he might want to consider consolidated his lots.

Mr. Gallagher stated that it would be an undue hardship to make applicant remove one structure.

Mr. Gallagher offered a motion to approve the application. Seconded by Ms. Pezzullo and approved on the following roll call vote:

ROLL CALL:

AYES: Mr. Fox, Mr. Kutosh, Mr. Gallagher, Mr. Mullen, Mr. O'Neil, Ms. Pezzullo, Ms. Maresca

NAYES: None

ABSTAIN: None

Approval of Minutes:

Mr. O'Neil offered a motion to approve the June 6th Zoning Board Meeting Minutes. Seconded by Mr. Kutosh and approved on the following roll call vote:

ROLL CALL:

AYES: Mr. Fox, Mr. Gallagher, Mr. Mullen, Mr. O'Neil, Ms. Pezzullo, Ms. Maresca

NAYES: None

ABSTAIN: None

Mr. Kutosh offered a motion to adjourn the meeting. Seconded by Mr. Fox and all were in favor.

The Meeting adjourned at 8:51 P.M.

Carolyn Cummins, Board Secretary