

**Borough of Highlands
Zoning Board
Regular/Reorganization Meeting
January 2, 2014**

Meeting Location: Henry Hudson Regional High School, 1 Grand Tour, Highlands

Mr. Braswell called the meeting to order at 7:43 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 and all requirements have been met. Notice has been transmitted to the Two River Times and the Asbury Park Press. Notice has been posted on the bulletin board.

ROLL CALL:

Present: Mr. Fox, Mr. Kutosh, Mr. Gallagher, Mr. Braswell

Late Arrival: Mr. Knox arrived at 7:53 p.m.

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

Reorganization:

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

**BOROUGH OF HIGHLANDS
ZONING BOARD RESOLUTION
DESIGNATING CHAIRPERSON
FOR THE YEAR 2014**

BE IT RESOLVED by the Borough of Highlands Zoning Board of Adjustment that Kenneth Braswell be appointed Chairperson of the Zoning Board for a term of one (1) year expiring December 31, 2014.

Seconded by Mr. Gallagher and adopted on the following Roll Call Vote:

ROLL CALL:

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

NAYES: None

ABSTAIN: None

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

**BOROUGH OF HIGHLANDS
ZONING BOARD OF ADJUSTMENT RESOLUTION
DESIGNATING VICE CHAIRPERSON
FOR THE YEAR 2014**

BE IT RESOLVED by the Borough of Highlands Zoning Board of Adjustment that James Fox be appointed Vice Chairperson of the Zoning Board for a term of one (1) year expiring December 31, 2014.

Seconded by Mr. Kutosh and adopted on the following Roll Call Vote:

ROLL CALL:

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

NAYES: None

ABSTAIN: None

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

**RESOLUTION APPOINTING ZONING BOARD ENGINEER FOR THE CALENDAR
YEAR 2014
AS A NON-FAIR AND OPEN CONTRACT**

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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 Board for the calendar year 2014 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, 11 Tindall Road, Middletown, NJ 07748 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, 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 Planning Board as follows:

1. Robert Keady, P.E. of T & M Associates is hereby appointed as Zoning Board Engineer for the calendar 2014 and said appointment is made as a non-fair and open contract.
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.
4. A copy of the Resolution shall be placed on file with the Board Secretary.
5. The Board Secretary is hereby directed to publish notice of this award as required by law.

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

ROLL CALL:

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

NAYES: None

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

**RESOLUTION AWARDING CONTRACT
A NON-FAIR AND OPEN CONTRACT
FOR PROFESSIONAL LEGAL SERVICES
TO GREG BAXTER, ESQ., OF THE LAW OFFICE OF CARUSO & BAXTER
&
APPROVING 2014 CONTRACT**

WHEREAS, there exists the need for Professional Legal Services to be provided to the Zoning Board of Adjustment for the period of January 1, 2014 through December 31, 2014; and

WHEREAS, such Professional Legal Services can only be provided by licensed professionals and Greg Baxter, Esq. of the law office of Caruso & Baxter is so recognized; and

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WHEREAS, Greg Baxter, Esq. of Caruso & Baxter was appointed as Zoning Board Attorney for the calendar year 2014 on January 2, 2014; and

WHEREAS, Greg Baxter, Esq. of the law office of Caruso & Baxter has submitted the attached 2014 contract for approval; and

WHEREAS, the Zoning Board has reviewed and hereby approves of the attached contract.

WHEREAS, the law office of Caruso & Baxter has completed and submitted a Business Entity Disclosure Certification which certifies that Caruso & Baxter 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 Caruso & Baxter from making any reportable contributions through the term of the contract, and

WHEREAS, the determination of value has been placed on file with this resolution with the Borough Clerk; and

WHEREAS, the law office of Caruso & Baxter has submitted the C.271 Political Contribution Disclosure Form in accordance with N.J.S.A. 19:44A-20.26 (P.L. 2005,c271, s2).

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; and

WHEREAS, certification of the availability of funds is hereby made contingent upon the adoption of the 2014 Municipal Budget as follows:

Zoning Board Budget \$ 10,410.00

For Legal Services for the Period of January 1, 2014 through December 31, 2014.

Stephen Pfeffer, CFO

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

1. Greg Baxter, Esq. of the law office of Caruso & Baxter is hereby awarded a non-fair and open contract for professional legal services to be provided to the Zoning Board for the period of January 1, 2014 through December 31, 2014 for an amount not to exceed \$10,410.00 and that the attached contract for 2014 is hereby approved.
2. This 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 person authorized by law to practice a recognized profession.
3. A copy of this Resolution as well as the contract shall be placed on file with the Board Secretary of the Borough of Highlands.
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: Mr. Fox, Mr. Kutosh, Mr. Gallagher, Mr. Braswell
NAYES: None
ABSTAIN: None

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

**RESOLUTION APPOINTING ZONING BOARD ENGINEER FOR THE CALENDAR
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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 Board for the calendar year 2014 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, 11 Tindall Road, Middletown, NJ 07748 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, 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 Planning Board as follows:

1. Robert Keady, P.E. of T & M Associates is hereby appointed as Zoning Board Engineer for the calendar 2014 and said appointment is made as a non-fair and open contract.
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.
4. A copy of the Resolution shall be placed on file with the Board Secretary.
5. The Board Secretary is hereby directed to publish notice of this award as required by law.

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

ROLL CALL:

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

NAYES: None

ABSTAIN: None

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

**BOROUGH OF HIGHLANDS
ZONING BOARD OF ADJUSTMENT
RESOLUTION APPOINTING BOARD SECRETARY
FOR THE YEAR 2014**

BE IT RESOLVED by the Borough of Highlands Zoning Board of Adjustment that Carolyn Cummins be appointed Secretary of the Zoning Board of Adjustment for a term of one (1) year expiring December 31, 2014.

Seconded by Mr. Fox and adopted on the following Roll Call Vote:

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ROLL CALL:

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

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

**RESOLUTION SETTING THE SCHEDULE FOR REGULAR
MEETINGS OF THE
BOROUGH OF HIGHLANDS ZONING BOARD OF ADJUSTMENT
FOR THE CALENDAR YEAR 2014**

BE IT RESOLVED by the Borough of Highlands Zoning Board of Adjustment that the following schedule is hereby designated as the official Regular Meeting Calendar of the Zoning Board of Adjustment for the year 2014. The official meeting days shall be the first Thursday of each month unless otherwise noted.

February 6, 2014
March 6, 2014
April 3, 2014
May 1, 2014
June 5, 2014
July 3, 2014
August 7, 2014
September 4, 2014
October 2, 2014
November 6, 2014
December 4, 2014
January 15, 2015 Regular/Reorganization (3rd Thursday)

BE IT FURTHER RESOLVED that all meetings will be held at the Highlands Elementary School, 360 Navesink Ave, Highlands, NJ 0772 at 7:30 p.m.

Seconded by Mr. Kutosh and adopted by the following Roll Call Vote:

ROLL CALL:

AYES: Mr. Kutosh, Mr. Knox, Mr. Gallagher, Mr. Braswell
NAYES: None
ABSTAIN: None

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

**BOROUGH OF HIGHLANDS
ZONING BOARD OF ADJUSTMENT RESOLUTION
DESIGNATING OFFICIAL NEWSPAPERS
FOR THE YEAR 2014**

BE IT RESOLVED by the Borough of Highlands Zoning Board of Adjustment that the **ASBURY PARK PRESS, THE TWO RIVER TIMES and Star Ledger** are hereby designated as the official Newspapers for the Borough of Highlands Zoning Board for publications which are required by law for a term of one (1) year, expiring December 31, 2014.

Seconded by Mr. Kutosh and adopted on the following Roll Call Vote:

ROLL CALL:

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

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**ZB#2014-1 Castellitto, Anthony
Block 103 Lot 10 – 361 Shore Drive
Application Review & Set P.H. Date**

Present: Mr. Castellitto

Mr. Knox arrived to the meeting at 7:53 p.m.

The Board reviewed the application and the following was stated:

1. The property is in the R-2.03 Zone needs to be added to the variance application.
2. Mr. Castellitto advised the board that the house was accidentally demolished during house raising.
3. The applicant wants to build on the same footprint.
4. The applicant must bring photographs of site to public hearing.
5. The Board wants house centered on lot so applicant said he could do 3feet side setbacks.
6. The applicant must plot the house where it will be located in center. Also need to show driveway and decks on plan.

Mr. Kutosh offered a motion to schedule this matter for a public hearing on February 5, 2014. Seconded by Mr. Gallagher and approved on the following roll call vote:

ROLL CALL:

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

NAYES: None

ABSTAIN: None

**ZB#2013-12 O'Reilly, M.
Block 78 Lot 1 – 20 Barberie Avenue
Approval of Resolution**

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

1/2/14

**RESOLUTION AMENDING RESOLUTION APPROVING
BULK VARIANCES
FOR O'REILLY**

WHEREAS, the Highlands Zoning Board of Adjustment adopted a resolution on November 7, 2013, granting bulk variance approval to MICHELLE O'REILLY, the owner of a residential property at 20 Barberie Avenue in the Borough of Highlands (Block 78, Lot 1); and

WHEREAS, Condition "B" of the resolution required the applicant to submit signed/sealed plans showing the proposed improvements and existing conditions; and

WHEREAS, the Board/Borough Engineer has reconsidered the matter and discussed it further with the Board at its public meeting on December 5, 2013, as a result of which the Board determined that it was not necessary for the applicant to provide a signed/sealed site plan, and this resolution shall memorialize the Board's action at its December 5, 2013, meeting;

NOW, THEREFORE, BE IT RESOLVED by the Zoning Board of Adjustment of the Borough of Highlands that the Board's resolution dated November 7, 2013, be and is hereby amended to delete Condition "B", to the extent that the applicant shall not be required to submit a signed/sealed site plan.

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

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ROLL CALL:

AYES: Mr. Kutosh, Mr. Knox, Mr. Gallagher, Mr. Braswell
NAYES: None
ABSTAIN: None

**ZB#2013-15 Oliveira, P. & N.
Block 77 Lot 4 – 14 Seadrift Avenue
Approval of Resolution**

Mr. Gallagher offered the following Resolution and moved on its adoption:
1/2/14

**RESOLUTION APPROVING BULK VARIANCES
FOR OLIVEIRA**

WHEREAS, the applicants, PAUL and NICOLE OLIVEIRA are the owners of a residential property at 14 Sea Drift Avenue in the Borough of Highlands (Block 77, Lot 4); and

WHEREAS, the applicants filed an application to construct a new single-family dwelling on their vacant lot which previously contained a single-family structure; 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 December 5, 2013; and

WHEREAS, the Board heard the testimony of the applicant, PAUL OLIVEIRA, and his builder, CLAUDE OWEN; and

WHEREAS, no objectors appeared to either ask questions or voice any objection to the application; and

WHEREAS, the applicant submitted the following documents in evidence:

- A-1 Variance application (3 pages);
- A-2 Zoning denial form dated October, 2013;
- A-3 Architectural plans prepared by Gregory Waga of Waga Ent's. dated 7/3/13, last revised 8/19/13 (4 pages)
- A-4 Flood elevation certificate dated 5/3/13 by Valerie Braginsky;
- A-4 Survey by Richard Stockton dated 8/2/13, showing existing conditions;

AND, WHEREAS, the following exhibit was marked into evidence as a Board exhibit:

- B-1 Board Engineer review letter by ROBERT KEADY dated 11/4/13 (4 pages);

AND, 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-2.01 Zone, which permits single-family homes.
2. The site is currently vacant, since the prior home was substantially damaged during Superstorm Sandy, so the applicant had it demolished.
3. The applicant proposes to build a new home, somewhat larger than the prior home, but essentially maintaining the footprint of the former home, except for the depth of the new home, which is approximately 9 feet larger.
4. The applicant proposed to center the dwelling on the property as much as possible.

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5. There is currently no off-street parking, and very little off-street parking anywhere on the street. If the applicant's plans are approved, there will be sufficient parking for at least three vehicles, two inside (under the structure), and one in the driveway.

6. The lot has only 25 feet of frontage, which, therefore restricts the size of the home that can be constructed on this lot.

7. The applicant seeks the following variance relief:

A. Lot area of 1,750 square feet where 3,750 square feet is required (pre-existing condition).

B. Lot frontage of 25 feet where 50 feet is required (pre-existing condition).

C. Minimum front yard setback of 9.25 feet where 20 feet is required.

D. Minimum side yard setback of 3.08 feet/5.37 feet where 6 feet/8 feet are required.

E. Minimum rear yard setback of 12.75 feet where 20 feet is required.

F. Lot coverage of 82.6% where 75% is permitted.

G. Building coverage of approximately 48.8% where 33% is permitted.

8. The new home will be three levels, with parking on the ground level. Such parking is a significant improvement to the property and to the neighborhood.

9. The height of the new structure will not exceed the height permitted in the zoning ordinance.

10. The width of the new home will be the same footprint as the prior home. The depth will be larger.

11. The shed which was previously at the rear of the property has been removed and will not be reinstalled.

12. The front setback of this structure will be very similar to the other houses on its side of Seadrift Avenue.

13. The lot to the immediate rear (on Barberie Avenue) is vacant and has been for several years.

14. The prior home was a 2-bedroom structure. This will be a 3-bedroom structure.

15. The Board feels that the applicants are entitled to construct a replacement home on their property. The issues presented to the Board were the degree of deviation from the zoning ordinance which should be permitted.

16. This application was prompted by Superstorm Sandy.

17. The Board finds that the positive criteria required for bulk variance relief under N.J.S.A. 40:55D-70(c) has been met, both because of the extraordinary and exceptional situation of the storm damage as it affected the lawful pre-existing structure and because of the narrowness of the lot.

18. Constructing this home above the flood elevation and providing off-street parking are significant improvements to the property and to the neighborhood.

19. Once the home is elevated, the living space no longer has the same relationship to the rear yard, as a result of which the Board finds the rear yard setback on this property, especially in conjunction with neighboring properties, to be reasonable and similar.

20. The applicants' plans have been prepared in the spirit of the dictates of the Highlands Borough ordinances.

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21. This relief can be granted without any substantial detriment to the public good or substantial impairment of the intent and purpose of the zone plan. The board finds no detriment as to either.

22. The Board determines that the requested relief, as modified by the Board's decision, will not cause any damage to the character of the neighborhood or constitute a substantial detriment to the public good.

WHEREAS, the application was heard by the Board at its meeting on December 5, 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 PAUL and NICOLE OLIVEIRA to construct a new home on their lot which housed their prior home before Superstorm Sandy, in accordance with their application and plans, is granted. Variances are hereby granted for the preexisting conditions set forth above in paragraphs 7A and 7B; and variances are also granted for the conditions set forth above in 7A through 7G, inclusively;

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

- A. Any damage caused to curbing, sidewalk or pavement during construction shall be repaired or replaced to the satisfaction of the borough.
- B. Since the applicant is not eligible for NJ DEP permit-by-rule approvals, further review is deferred to the NJ DEP.
- C. No replacement shed shall be constructed on the property.

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

ROLL CALL:

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

NAYES: None

ABSTAIN: None

Approval of Minutes

Mr. Gallagher offered a motion to approve the December 5, 2013 Zoning Board Minutes. Seconded by Mr. Kutosh and approved on the following roll call vote:

ROLL CALL:

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

NAYES: None

ABSTIAN: None

Communication:

Claude Owen asked the board if he could have an informal with the Board with regard to a Mercantile license.

Mr. Baxter advised him that the Board would not.

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

The meeting adjourned at 8:13 p.m.

Carolyn Cummins, Board Secretary