

**Borough of Highlands
Zoning Board of Adjustment
Regular Meeting
October 2, 2014**

Meeting Location: Highlands Elementary School, 360 Navesink Ave, Highlands, NJ 07732

Mr. Braswell called the meeting to order at 7:43 PM.

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 public bulletin board.

Roll Call;

Present; Mr. Fox, Mr. Kutosh, Mr. Knox, Mr. Gallagher, Mr. Mullen, Mr. O'Neil, Mr. Braswell, Ms. Pezzullo

Absent; Ms. Ziemba

Also Present; Carolyn Cummins, Borough Clerk
Greg Baxter, Esq., Borough Attorney
Martin Truscott, P.P., Board Planner

**ZB 2014-17 Fitzpatrick, Andrew
Block 100 Lot 26.30 – 30 Gravelly Point Road**

Mr. Baxter noticed some problems and informed Mrs. Fitzpatrick that additional variances were required.

Mrs. Fitzpatrick would like to proceed with less variance.

**ZB#2014-14 Hamilton, Anne
Block 72 Lot 39 – 3 Seadrift Avenue
Approval of Resolution**

Mr. Kutosh offered the following Resolution and moved on its adoption:
10/2/14

**RESOLUTION APPROVING BULK VARIANCES
FOR HAMILTON AT 3 SEA DRIFT AVENUE**

WHEREAS, the applicant, ANNE HAMILTON, is the owner of 3 Sea Drive Avenue, Highlands, New Jersey (Block 72, Lot 39); and

WHEREAS, in 2006, the applicant received variance approval from this board to add a 220-square foot addition to the second floor and a 99-square foot deck at the rear of the second floor; and

WHEREAS, the applicant now seeks approval to expand her second story deck, install a front deck, and extend the roofline; 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 public hearings on September 4, 2014; and

WHEREAS, the Board heard the testimony of the applicant's husband, WAYNE HAMILTON, and her architect, KONSTANTINOS ARAVANTINOS; and

WHEREAS, two neighbors, WALTER GUNTHER and PATRICIA SCARANO appeared to ask questions, but neither witness supported or objected to the application; and

WHEREAS, the applicant submitted the following documents in evidence:

A-1: Variance application (3 pages);

A-2: Zoning Officer denial and typed sheet (2 pages);

A-3: 2/25/13 survey by Michael T. Cannon

A-4: Architectural plans by JOSEPH TINLEY, JR.,
of KON/STRUCTION LLC dated 5/6/14

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A-5: Zoning Board resolution dated 10/5/06

A-6: Two photos on one sheet showing subject property and lot;

A-7: Two photos on one sheet showing front of house;

WHEREAS, the Board received and marked the following

exhibits into evidence:

B-1: Board Engineer review letter dated 8/21/14
(4 pages plus aerial photo);

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

1. The applicant is the owner of a single-family home in the R-2.01 Zone.

2. MR. HAMILTON testified that all conditions of the 2006 resolution have been completed in accordance with the terms of the resolution.

3. This application is made because of MRS. HAMILTON'S desire to have a balcony facing the front and to extend her existing deck in the rear.

4. There is and will be no ability to sit on the roof, which is at the top of a spiral staircase.

5. The first floor rear deck did not require Board action or approval.

6. The first floor level will be 19 feet in height.

7. The setback requirements for the decks are the same on the first and second floors (i.e., 20 feet).

8. The deck on the first floor front was previously approved.

9. There are technical variances based on the conditions here.

10. The house to the immediate south of the subject no longer exists. The aerial provided by the Board Engineer shows a house to the south, which appears similar in location to the subject. The cinderblocks of the old house appear to be in line with the subject.

11. There is no residential property to the rear, only commercial property.

12. The decks will be open (meaning no roofs), but the fact that there is another deck above it implicates the setback requirements.

13. Most of the new houses built or rehabilitated since Superstorm Sandy have decks.

14. The applicant seeks variances for the following:

A. Lot area of 1,750 square feet, where 3,750 square feet are required (preexisting condition);

B. Lot frontage of 25 feet, where 50 feet is required (preexisting condition);

C. Lot depth of 70 feet, where 75 feet is required (preexisting condition);

D. Side yard setback of 1.5 feet/2.5 feet, where 6 feet/8 feet are required (preexisting condition);

E. Side yard setback for the first story rear deck of 2.8 feet/3.8 feet, where 3 feet are required (preexisting condition);

F. Front yard setback of 2.17 feet, where 20 feet are required (the preexisting condition was 7 feet);

G. Rear yard setback of 12.9 feet, where 20 feet are required (the preexisting condition was 20.8 feet);

H. Lot coverage of 81%, where 75% is permitted (preexisting condition was 69%);

I. Building coverage of 75%, where 33% is permitted (preexisting condition was 63%);

J. Rear yard setback for first story rear deck of 3 feet, where 20 feet are required (because of the roof on the first floor);

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K. Rear yard setback on second story rear deck of 3 feet, where 20 feet are required (preexisting condition was 12.9 feet);

L. Side yard setback for second story rear deck of 2.8 feet/3.8 feet, where 6 feet/8 feet are required (same as prior condition);

M. Front yard setback for first story deck of 2.17 feet, where 20 feet are required;

N. Side yard setback for first story front deck of 1.5 feet/2.5 feet, where 6/8 feet are required;

O. Front yard setback for second story deck of 2.17 feet, where 20 feet are required; and

P. Side yard setback for second story front deck of 1.5 feet/2.5 feet, where 6/8 feet are required.

15. The variances requested by the applicant are in keeping with what the Borough and Board have been allowing, there being at least two other examples in the immediate area. As a result, the Board finds that this proposal will have no detrimental effect on any of the neighbors, and, rather, is in keeping with the character of the neighborhood.

16. Because the first level deck is high above the ground, it is not visually perceived as taking up land.

17. The proposed changes will not be a substantial detriment to the public good. In fact, they will be in keeping with the character of the entire neighborhood. It also will not be a substantial impairment to the intent and purpose of the zone plan and zoning ordinance.

WHEREAS, the application was heard by the Board at its meeting on September 4, 2014, 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 ANNE HAMILTON to expand her second story deck, install a front deck, and extend the roofline, as more fully set forth on the plans submitted and referenced herein, be and is hereby approved, and variances are hereby granted for the preexisting conditions of lot area, lot frontage, lot depth, side yard setback of the house, and side yard setback of the first story rear deck; and for front yard setback, rear yard setback, lot coverage, building coverage, rear yard setbacks on the first story deck and second story deck, side yard setbacks on the second story rear deck, the first story front deck, and the second story front deck; and for the front setback on the first and second story front decks, all as more specifically described in paragraph 14 above;

AND BE IT FURTHER RESOLVED that this approval is subject to the following conditions:

(1) The height of the home will not exceed the requirements of the borough ordinance;

(2) None of the approvals or conditions of the Board's 2006 resolution shall be deemed removed or waived unless expressly done so in this resolution;

(3) Review of the building elevation is deferred to the Flood Plain Officer;

(4) Any damage to the existing pavement, sidewalk or curb shall be repaired or replaced to the satisfaction of the Borough.

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

ROLL CALL:

**AYE: Mr. Fox, Mr. Kutosh, Mr. Knox, Mr. O'Neil,
Ms. Pezzullo, Mr. Braswell**

NAY: None

ABSTAIN: None

**ZB 2014-13 Shanagan, Francis
Block 69 Lot 15.20 – 15 Cedar Street #20**

Present: Francis Shanagan, Applicant

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**Andrew Thomas, P.P.
Ron Gasiorowski, Esq.**

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 exhibits were marked into evidence this evening:

- A-1: Variance Application;
- A-2: Zoning Denial;
- A-3: Survey dated August;
- A-4: Letter from Honey Suckle Lodge Association dated 8-18-14;
- A-5: Structural Details Drawings dated 5-2-12;
- A-6: Elevation Certificate dated September 15, 2014;
- A-7: Foundation Plan dated October 2014;
- A-8: Building Permits;
- A-9: Large Aerial Photo;
- A-10A – A-:E: 4 by 6 Photographs of site;
- B-1: Board Engineers Letter dated September 24, 2014.

Mr. Gasiorowski stated that the property is located on block 60 lot 15.20 and is part of Honey Suckle Lodge. It's in a residential zone so a use variance is required.

Francis Shanagan was sworn in and the following was stated during testimony and response to questions by the board:

1. The property is owned by his 3 children and he is a retired from the New York Fire Department.
2. His family has 4 Generations at Honeysuckle Lodge.
3. His family owns 6 units, summer units.
4. The building was originally damaged during Sandy Storm and he wanted to upgrade.
5. Building walls are the same.
6. Footprint is the same.
7. It was not his intension to demo he just wanted to rebuild
8. Contractor got carried away with repairs.
9. 28 Units on site
10. Contractor explained new pieces were easier.
11. He was not living in New Jersey during construction.
12. Damaged somewhat by Sandy but it was livable.
13. He is representing his children.
14. Application reviewed and showed signature of applicants.
15. Permits were taken out then worked stopped because contractor went too far.
16. Contractor was wrong.
17. His intention was to repair then realized more damage.
18. It's a new structure same footprint.

Public Questions – There were none.

Andre Thomas, P.P. was called up to testify and sworn in. The following was stated during testimony and response to questions by the board:

1. He is a licensed Professional Planner in NJ. He then gave his professional background to the board and the board accepted him as a professional.
2. He visited site and master plan.
3. He prepared Exhibit A-9 which is aerial map of property.
4. The property is located in the WC-2 zone and he described maps.
5. There are 28 lots on the site.
6. Property located on Cedar Ave.
7. They are Bungalow units.
8. Use variance necessary, non-conforming.
9. D-1 variance

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10. Viewed and explained photos A-10 A – E.
11. Variances are justified.
12. Units constructed in 1938, 28 units.
13. Not possible to fit a permitted use on site.
14. No auto access.
15. Reconstruction has no negative impact on neighborhood.
16. This meets 3 goals of master plan which he described.
17. Not increasing density of site.
18. The master plan was updated in 2004.
19. This would be hardship to property owner to have to build permitted use.
20. This is simply just a reconstruction.
21. He described the special reason that meet the goals of the Master Plan.
22. He is not increasing density.
23. The structure is partially framed out.
24. Applied to renovate scope of work.

Mr. Mullen stated that they applied for permit to renovate scope of work and changes were because of the contractor.

Mr. Gasioroski stated that this is to make new duplicate unit.

Martin Truscott, P.P. for the Borough was sworn in and questioned the height of the structure.

Mr. Shanagan stated the structure will not be elevated.

Mr. Truscott – will it comply with flood elevation.

Mr. Keady the height is based on old rating so its actually in AE Zone.

Mr. Braswell – it must be 1 ft above the BFE.

Mr. Gasioroski – we will deal with it if it comes up.

Mr. Keady explained height measurement and he believes it will comply.

Discussion about elevation and height.

The application will need flood approval.

Mr. Gallagher questioned how things went to far.

Discussion.

Mr. Thomas – it's a condo association.

Mr. Truscott has no objections and feels it meets positive criteria.

Public Questions:

A woman asked the board who Mr. Truscott was and Mr. Baxter explained that he was the Professional Planner for the board.

Public Comments;

Brian Adams of 29 Central Ave was sworn in and stated on his street all houses being raised not. He then spoke favorably about the application.

Chris Francy questioned elevation and spoke of fire rating construction.

Mr. Baxter explained that the board does not deal with fire ratings.

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Barbara Ianucci of 28 Shrewsbury Avenue is trying to understand issues of building and no room for stairs, no benefit to raise historic colony.

Mr. Braswell stated that the board does not have jurisdiction on flood regulations.

No further public comments.

Mr. Baxter reviewed the variances required with the board.

Mr. O'Neil offered a motion to approve the application. Seconded by Mr. Mullen and approved on the following roll call vote:

ROLL CALL:

Aye: Mr. Fox, Mr. Kutosh, Mr. Knox, Mr. Mullen, Mr. O'Neil, Mr. Braswell,
Ms. Pezzullo
Naye: Mr. Gallagher
Abstain: None

**ZB#2014-15 Grover, Chris
Block 88 Lot 5 – 321 Bay Avenue
Hearings on New Business:**

Present: Chris Grover
Keith Mazurek, A.I.A.

Mr. Baxter stated that he reviewed the public notice and finds it to be proper. He then read the exhibit listing as follows:

- A-1: Variance Application;
- A-2: Site Plan Review application;
- A-3: Zoning Officer List of variances;
- A-4: 10/16/63 Survey by Richard Strockton;
- A-5: Architectural plans by Keith Mazurek dated 7/31/14;
- A-6: 8 X 10 Photograph of site;
- B-1: Board Engineer & Planner Review Letter dated 8/21/14.

Chris Grover was sworn in and stated the following during his testimony and response to questions by the board:

1. The property is located at 321 Bay Ave, the old Hardware Store.
2. He wants to add third floor of residential use.
3. Existing is retail on first floor and two apartments on second level.
4. He is wants to have six residential units and two retail spaces, possibly three commercial spaces.

Mr. Baxter explained this requires a use variance because it's a conditional use but it does not meet the conditions of the ordinance. Variance in the B-1 Zone, six bulk variances which he read.

Keith Mazurek, A.I. A. was sworn in and stated the following during his testimony and response to questions from the board:

1. They have a couple of height changes.
2. He is trying to go with existing and just go up.
3. He spoke about egress requirements and barring walls.
4. If met with ordinance requirements it's a preexisting non conforming use.
5. The hardware store has two units over it Cranky's does not.

Mr. Baxter stated that the applicant properly renoticed to Shannon Enterprises and republished.

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Mr. Mazurek continues as follows:

6. They are trying to make this corner property visual.

Mr. Grover stated that the proposed is aestically nicer and that he is making six two bedroom apartments. He stated that no one currently lives at the site and that one of the existing apartments is a four bedroom and the other is a two bedroom.

Mr. Mullen questioned the project with regard to the location of the trash and parking issues.

Mr. Mazurek stated parking issues is always a concern.

Mr. O'Neil – it's the same as the Honey Suckle Lodge – no parking.

Mr. Mazurek stated tenants maybe commuters.

Mr. Grover – if we went to office space verses residential it would require more parking. He then stated that they have an alley for the trash area.

Mr. Mullen – windows in living room are on the property line.

Mr. Grover stated that he would flood proof the building and that the property next door is not for sale.

Ms. Pezzullo questioned the type of tenants.

Mr. Grover stated that within two minutes on face book he received 15 offers. He stated that the property is the corner store for Highlands. He explained that he is not an absentee landlord. He feels the proposed will create a new demographic.

Mr. O'Neil stated that Mr. Grover is a reputable person.

Ms. Pezzullo questioned lack of parking and the increase in the number of residential units.

Mr. Grover – office space would have more of an impact on parking.

Discussions continued.

Mr. Truscott – the ordinance does not allow residential to be located below.

Mr. O'Neil spoke favorably about the project.

Mr. Braswell spoke about the parking deficiency fund.

Discussion about time limited parking in area.

Mr. Grover the apartments will have washer and dryers. He then stated that this is a transit village area.

Public Questions

Arnie Fuog of 50 Valley Street asked if old hotel project had parking.

Mr. Braswell – parking was depressed.

Arnie Fuog – this is a great builder.

Greg Rauen of 256 Bayside Drive asked if we have a parking problem and asked if the applicant did an analysis of asking price for apartments.

Mr. Grover about \$1,500 to \$2,000 per month.

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Nancy Burton of 22 Center Street asked to explain parking fund ordinance.

Mr. Grover explained it's a dollar amount per parking space and he does not know where the money goes.

Mr. Keady explained parking deficiency ordinance.

Mr. Mullen asked if this is a bifurcated application. We haven't spoke about the site plan.

Sean Collins of 141 Highland Avenue asked for parking requirements.

Mr. Keady – 26 spaces.

Melissa Pederson of 17 Bay Street questioned location of required parking.

Ed McNamara of Twinlight Court – parking issues could be alleviated.

Carolyn Broulon asked the applicant if he spoke with Kim (71 Waterwitch Ave) to benefit from her parking spaces.

Mr. Braswell – we would need an agreement for lease of lot.

Mr. Gallagher questioned location of trash area.

Mr. Grover – showed location between buildings.

Discussion about trash pick up.

Public Comments

Nancy Burton was sworn in and stated that the trash we have a lot of small business and spoke about shared dumpsters. She encourages this project and stated that this project gives hope to the town. She stated that there are no parking issue concerns.

Ed McNamara of J-6 Twinlight Court was sworn in and spoke favorably about the application.

Arnie Fuog of 50 Valley Street was sworn in and stated board should consider this application if not approved then we are stuck with existing structure.

Kim Skorka of 315 Shore Drive was sworn in and encouraged the application and spoke favorably.

Garrett Noocom was sworn in and spoke favorably about the project.

Barbara Ianucci was sworn in and stated the applicant built her home and that he does high quality work and that he would comply with all problems mentioned.

Carolyn Broulon was sworn in and spoke favorably about the project and that it would have an amazing impact to town.

Mellissa Pederson was sworn in and stated she was a rentor and spoke of parking issues in the city. She is excited about the project and stated it gives hope to the town.

Anges McDoogle was sworn in and stated this is a great project and that we do not have parking problems.

Brian Adams of 29 Central Ave was sworn in and spoke favorably and said it's a great project.

Gregg Wells of 246 Bayside Drive was sworn in and gave his history of why he moved here. This is an opportunity to start change.

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Arnie Fuog asked if anyone had any objections – there were none.

Board has discussion about the application.

Mr. Baxter – the professionals thought this was a bifurcated application but there are not a lot of site plan issues.

Mr. Keady – suggested that a condition of approval be the submission of a lighting plan to him to review. He then requested sewer diagram.

Mr. Baxter reviewed the required variances and site plan conditions.

Mr. Gallagher offered a motion to approve, seconded by Mr. Kutosh and approved on the following roll call vote:

Roll Call:

Aye: Mr. Fox, Mr. Kutosh, Mr. Knox, Mr. Gallagher, Mr. Mullen, Mr. O’Neil, Mr. Braswell

Naye: None

Abstain: None

The Board took a recess at 10:12 pm and returned back at 10:20 pm
Rick O’Neil left the meeting for the night.

**ZB#2014-16 Seylaz, Geraldine
Block 79 Lot 13 – 27 Wasington Ave
Hearing on New Business**

**Present: Patricia Cammano
Geraldine Seylaz
Tom O’Neil, Contractor
Mannie Cammano**

Mr. Baxter swore in all the above. He then read the required variances from the board engineer letter and the following exhibits were marked into evidence:

- A-1 Variance application (3 pages);
- A-2 Zoning Officer denial and email dated 8/14/14;
- A-3 [NOT USED]
- A-4 Floor plans and survey by Joseph M. Tinley, Jr. dated 7/8/14 (3 pages)
- A-5 9/25/14 survey by Richard Stockton
- A-6 photo

Ms. Seylaz stated that they will have onsite parking when house is elevated.

Tom O’Neil stated that they will get rid of shack. They are not rebuilding just raising and will build on top. Porch and stairs enclosed on side 3 ft bumpout.

Ms. Seylaz wants stairs inside for safety reasons. The House was built in 1953 and she hopes to retire here. The house is vacant in the winter. They already redid and are now lifting.

Mr. O’Neil – height is not an issue. They will lift house above flood plain. The decks will be unroofed. Two parking spaces underneath the house will be provided but today there are no onsite parking spaces.

Mr. Kutosh questioned why does the front porch have to be so close.

Mr. Mullen questioned why not move house back.

Mr. O’Neil – going on top of block so can’t move.

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Mr. Kutosh – shrink front deck small from 7 ft. to 6 ft.

Mr. O’Neil stated all houses are in line with each other.

Discussion about front yard setback.

Tom O’Neil – neighbor has two foot setback.

Mr. Gallagher – don’t have the deck exceed either neighbors setback.

Mr. Keady – need revised plan to show surrounding houses on survey for front yard.

Mr. Kutoshh – plans look like footing exceeding property line. Canterlever the deck and provide new plan.

Public Questions – None

Public Comment

Kathy Canoe of 11 Gravelly was sworn in and spoke favorably about the application.

Mr. Gallagher offered a motion to approve the application with conditions as discussed. Seconded by Mr. Fox and approved on the following roll call vote;

ROLL CALL VOTE:

**Aye: Mr. Fox, Mr. Kutosh, Mr. Knox, Mr. Gallagher, Mr. Mullen,
Ms. Pezzullo, Mr. Braswell**

Nay: None

Abstain: None

**ZB# 2014-17 Fitzpatrick, Andrew
Block 100 Lot 26.30 – 30 Gravelly Point Rd
Hearing on New Business**

Present: Christina Fitzpatrick

Conflict: Mr. Braswell stepped down.

Mr. Fox chaired hearing.

Mr. Baxter stated that he has reviewed the public notice and finds it to be okay but it is limited to relief in notice.

Mr. Baxter marked the following exhibits into evidence:

- A-1: Variance Application;
- A-2: Zoning Denial;
- A-3: Survey dated 3/5/14;
- A-4: Survey date4d 3/21/14;
- A-5: Part of Tax Map showing lot;
- A-6: Elevation Certificate dated 3/21/14;
- A-7: Two Photographs;
- B-1: Board Engineer Review Letter dated 9/24/14.

Christina Fitzpatrick was sworn in and stated the following during her testimony and response to questions from the board:

1. The application submitted to the board is different than the one submitted to the zoning officer.
2. They are building a new house. L shaped bungalow wants to build back and raise same

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house and corner off the L shape and she wants two stories.

Mr. Baxter – a one level raise house parking for two underneath.

Mr. Keady – if stairs/deck could be an issue so we need to see a plan.

Mrs. Fitzpatrick – she wants to stay on old footing. The lot size is 31 by 59. The Shower is gone it's a cleared lot.

Mr. Keady – you can't cross property line footing will encroach. She wants to build to property line. Height is not an issue.

Mr. Baxter – side yards only rebuilding to line zero side yard, will be a 3ft rear yard. The shed is gone and not coming back.

Discussions.

Mr. Baxter explained that there is a deficiency problem with public notice for building coverage.

Discussions about errors in notice and variances requested.

Mr. Mullen – lot coverage is global.

Mr. Baxter – no lines on survey.

Mrs. Fitzpatrick expressed her frustration with the process.

Mr. Keady – need a plan to make a determination.

Mrs. Fitzpatrick stated that she did not want to get a plan and then argued with the board about the building coverage issue.

Mr. Keady stated that the applicant is adding to the footprint.

Mr. Baxter – carry the hearing and have the applicant renote and determine if site plan is required.

Discussion on setbacks in bungalow colony.

The applicant must renote and include all of the required variances.

Mr. Mullen offered a motion to carry hearing to the November meeting. Seconded by Mr. Fox and approved on the following:

ROLL CALL:

Aye: Mr. Fox, Mr. Kutosh, Mr. Mullen, Mr. Knox, Mr. Gallagher, Ms. Pezzullo
Nay: None
Abstain: None

Approval of Minutes

Mr. Kutosh offered a motion to approve the September 4, 2014 Zoning Board Minutes. Seconded by Mr. Knox and all were in favor.

Mr. Kutosh offered a motion to adjourn the meeting.

The Meeting adjourned at 11:42 P.M.

Carolyn Cummins, Board Secretary

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