

Borough of Highlands  
Zoning Board of Adjustment  
Meeting  
March 12, 2015

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

Mr. Braswell called the meeting to order at 8:18 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 special meeting of the Borough of Highlands of Highlands Zoning Board 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 a public bulletin board.

**ROLL CALL:**

**Present: Mr. Fox, Mr. Kutosh, Mr. Knox, Mr. Mullen, Mr. O'Neil, Ms. Ziembra, Mr. Booth, Mr. Braswell**

**Absent: Ms. Pezzullo**

**Also Present: Carolyn Cummins, Board Secretary  
Robert Keady, P.E., Board Engineer**

**Also Absent: Gregory Baxter, Esq., Board Attorney**

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**ZB#2015-1 O'Neil, Wayne & Patricia  
27 Ocean Avenue  
Block 99 Lot 25  
Review of Application**

**Present: Wayne & Patricia O'Neil**

The Board reviewed the application and the following was stated:

1. The Board would like a copy of the typed version of the zoning denial.
2. The Application is to move house back 10feet to elevate the home.
3. The application requires side yard setbacks.
4. The applicant must bring photographs of site and surrounding homes.

Mr. Kutosh offered a motion to schedule this application for a public hearing on April 2<sup>nd</sup>.  
Seconded by Mr. Knox and approved on the following roll call vote:

**Roll Call:**

**Ayes; Mr. Fox, Mr. Kutosh, Mr. Knox, Mr. Mullen, Mr. O'Neil, Ms. Ziembra, Mr. Braswell**

**Nay: None**

**Abstain: None**

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**ZB#2015-2 Flynn, Colleen  
9 Seadrift Avenue  
Block 72 Lot 36  
Review of Application**

**Present: Michael & Colleen Flynn**

The Board reviewed the application and the following was stated:

1. The House is currently under construction and is exceeding the height limit.
2. Item two on the variance application needs to be corrected to reflect the correct Zone which is R-201.
3. The Board Members need copies of the Zoning Officers letters dated 1/28/15 and 2/23/15.

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4. The house exceeds the permitted height.
5. There are grading issues and the board engineer requested a grading plan.
6. Parking will be provided under the house.
7. The applicant stated that he did not add fill to site, he just moved existing dirt around.
8. Mr. Flynn tried to explain reason for exceeding height.
9. Need surveyors report on height and grading plan and elevation survey.
10. The applicant must bring photos of site and surrounding homes to hearing.
11. The board will need to know the height of each floor on plan

Mr. O'Neil offered a motion to schedule the hearing for this application for April 2<sup>nd</sup>. Seconded by Mr. Kutosh and approved on the following roll call vote:

**Roll Call Vote:**

**Aye:** Mr. Fox, Mr. Kutosh, Mr. Knox, Mr. Mullen, Mr. O'Neil, Ms. Ziemba,  
Mr. Braswell  
**Nay:** None  
**Abstain:** None

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**ZB#2013-4 Amended – Allen, Chris & Beth**  
**5 Ocean Avenue**  
**Block 99 Lot 16**  
**Review of Application**

**Present: Beth & Christopher Allen**

The Board reviewed the application and the following was stated:

1. The applicant is extending third floor balcony to a deck in rear yard because of AC units and generator location.
2. They will not build enclosure.
3. Deck becomes coverage issue.
4. Lower deck on previous structure was 16 x 19 feet.
5. Lot coverage originally exceeded to 36% but 37.58% in zoning.
6. The board reviewed the 2013 zoning board resolution.
7. The applicant wants the dimensions of the deck to be the same size that was on the original house both upper and lower decks.
8. The Board needs Zoning Officers letter.
9. Applicant must provide the board with 17 sets of the plans.

Mr. Kutosh offered a motion to schedule a hearing for this application for April 2<sup>nd</sup>. Seconded by Mr. O'Neil and approved on the following roll call vote:

**ROLL CALL:**

**AYE:** Mr. Fox, Mr. Kutosh, Mr. Knox, Mr. Mullen, Mr. Mullen, Mr. O'Neil,  
Ms. Ziemba, Mr. Braswell  
**NAY:** None  
**ABSTAIN:** None

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**ZB#2013-3Amended Quick Chek**  
**440 Navesink Avenue**  
**Block 108 Lot 1.01**  
**Adoption of Resolution**

Mr. O'Neil offered the following Resolution and moved on its adoption:

**RESOLUTION GRANTING BULK VARIANCES AND AMENDMENT TO SITE PLAN  
FOR QUICK CHEK CORPORATION**

WHEREAS, the applicant, QUICK CHEK CORPORATION, previously obtained a use variance and final site plan approval from this Board to construct a retail convenience store and gasoline station at 440 State Highway 36, Highlands, New Jersey (Block 108, Lot 1.01); and

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WHEREAS, QUICK CHEK has applied for variance relief to install a permanent generator and thereby amend its final site plan approval; 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 February 5, 2015; and

WHEREAS, the Board heard the testimony of ROBERT STREKER, the applicant's planner; and

WHEREAS, no objectors appeared; and

WHEREAS, the applicant submitted the following documents in evidence:

- A-1 Site plan review application (6 pages)
- A-2 Zoning permit application and denial dated 11/6/14
- A-3 Minor site plan by Keith B. Cahill, of Bohler Engineering dated 11/11/14 (6 pages)
- A-4 As-built survey by James C. Weed, of Control Point Associates, last revised 3/6/13
- A-5 Survey by James C. Weed, of Control Point Associates, last revised 1/5/15
- A-6 Colorized version of page 3 of Exhibit A-3
- A-7 Colorized version of page 4 of Exhibit A-3

AND, WHEREAS, the following exhibits were marked into evidence as Board exhibits:

- B-1 Board Engineer review letter dated 1/29/15 by Robert Keady (4 pages, plus aerial photo)
- B-2 2/2/15 Letter from David Parker, Highlands Office of Emergency Management Coordinator
- B-3 Resolution approving use variance for Quick Chek Corporation dated 2/3/11 (15 pages)
- B-4 Resolution granting preliminary and final site plan approval for Quick Check Corporation dated 7/7/11 (18 pages)
- B-5 Resolution confirming satisfaction of Condition #6 in 7/4/11 resolution of approval and approving location of remediation equipment for Quick Chek Corporation dated 8/2/12 (4 pages)

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

1. The site is located in the HO (Highway Oriented Business) Zone.
2. The property fronts on State Highway 36 westbound to the south and on Ocean Boulevard (County Route 8) to the north.
3. The applicant proposes to install a permanent generator on site, and plans to use grant money from the NJEDA (New Jersey Economic Development Authority), as part of the NJEDA's Retail Fuel Station Energy Resiliency Program.

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4. The gas station use, in conjunction with the retail operation, is not permitted in the HO Zone district; however, the applicant was previously granted use variance approval for the same. No changes in use to the site are proposed in this application.

5. The proposed generator will be 125 kw. It will be permanent and powered by natural gas. If power is lost, the generator will power the entire site.

6. There will be underground piping from the generator to the retail building.

7. ATS has already been installed, as a result of which it will be easy to connect the generator to the building.

8. There will be an enclosure around the generator, as shown on the applicant's plans, which will screen the generator from weather and, to some degree, noise. The Board notes that NJAC 7:29-1.5(a)14 excludes emergency electricity generators at a commercial facility for use during an electrical outage from the noise restrictions in NJAC 7:29-1.2.

9. In addition, the applicant has proposed evergreen shrubbery (6-foot to 7-foot junipers) around the proposed generator on the south and west sides, which will provide screening from State Highway 36 and the adjacent property.

10. The generator will be placed on a concrete pad on the western side of the property, as shown on the applicant's plans. This is the best location, considering its proximity to the electric panels.

11. Other possible locations on the site were considered, however, they are remote from the electricity lode.

12. The location of the generator will be 25.2 feet from the state highway right-of-way, which prompts the need for variance relief.

13. The installation of the generator and its location will not impact existing parking or circulation on site.

14. The pedestrian walkway will be maintained. During construction, however, there will be a small trench, which will be restored after construction has been completed.

15. There will be no lighting for the generator.

16. The generator will go on one time per week for 15 minutes, during daytime hours. It is programmed and will go on automatically.

17. No bollards are proposed, though there will be a string of juniper plantings.

18. If the generator were to be moved back further into the site, previously approved parking spaces would be lost, the generator would be closer to the cell tower, and it would also be very close to the remediation trailer, none of which possibilities were attractive to either the applicant or the Board.

19. The Emergency Management Coordinator for the borough has approved the applicant's proposal.

20. The size of the generator itself will be 12 feet in length, 4 feet in width, and 5.5 feet in height.

21. The Board members remember what happened in the borough during Sandy, which required borough residents to wait long periods of time and travel long distances in order to get gasoline. The generator will solve that type of problem.

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22. The applicant seeks the following variance relief, in addition to the site plan amendments as referenced above:

A. Front yard setbacks from Ocean Boulevard of 20.5 feet for the building, 25 feet for the canopy, and 12 feet for the trash enclosure, where 50 feet is required for each. All of these are preexisting conditions.

B. Front setback from Route 36 for an accessory structure (generator) of 25.2 feet, where 50 feet is required.

C. Distance from accessory structure (generator) to street line of 25.2 feet, where 50 feet is required.

23. The board finds no negative impact of this plan. As a result there is no substantial detriment. In fact, the board finds no detriment at all.

24. The three bulk variances requested here can be granted without substantial detriment to the public good or substantially impairing the intent and purpose of the zone plan. The impact of the requested variances on surrounding properties will be positive, rather than negative; and, therefore, the requested variances will not damage 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 February 5, 2015, 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 for bulk variance relief and an amendment to its previous final site plan approval for its convenience store and gas station operation on Lot 1.01 in Block 108 is hereby approved; variances for accessory structure front yard setback on Highway 36 and accessory structure distance from street line are hereby approved; and the applicant's proposed amendment to its final site plan is also approved.

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

**ROLL CALL:**

**AYES:** Mr. Fox, Mr. Kutosh, Mr. Knox, Mr. Mullen, Mr. O'Neil, Mr. Booth,  
Mr. Braswell

**NAY:** None

**ABSTAIN:** None

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**Approval of Minutes**

Mr. Mullen offered a motion to approve the February 5, 2015 minutes. Seconded by Mr. Fox and approved on the following roll call vote:

**ROLL CALL:**

**AYE:** Mr. Fox, Mr. Kutosh, Mr. Knox, Mr. Mullen, Mr. O'Neil, Mr. Booth,  
Mr. Braswell

**Nay:** None

**Abstain:** None

Mr. Kutosh offered a motion to adjourn, seconded by Mr. Fox and all were in favor. The meeting adjourned at 9:01 P.M.

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**Carolyn Cummins, Board Secretary**