

**Borough of Highlands  
Zoning Board of Adjustment  
Regular Meeting  
July 2, 2015**

Meeting Location: Highlands Fire House, 17-1 Shore Drive, Highlands, NJ.

Mr. Braswell called the meeting to order at 7:36 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 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.

**ROLL CALL:**

**Present:** Mr. Fox, Mr. Kutosh, Mr. Knox, Mr. Mullen, Ms. Pezzullo, Mr. Braswell, Ms. Ziamba

**Absent:** Mr. O'Neil, Mr. Booth

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

---

**ZB#2015-2 Flynn, Colleen – 9 Seadrift Ave, Block 72 Lot 36**

**Approval of Resolution**

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

**RESOLUTION DENYING BULK VARIANCE RELIEF  
FOR FLYNN AT 9 SEADRIFT AVENUE**

WHEREAS, the applicant, CHRISTINE FLYNN, is the owner of a single-family home at 9 Seadrift Avenue, Highlands, New Jersey (Block 72, Lot 36); and

WHEREAS, the property owner filed an application to raise her home in accordance with flood plain requirements, at a height exceeding the height allowed by ordinance; 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 April 2 and May 7, 2015; and

WHEREAS, testimony was provided by the owners, COLLEEN and MIKE FLYNN; plus comments from neighbors, TERRENCE KING, PATRICIA SCARANO and CLAUDETTE D'ARRIGO, the latter two of whom supported the application; and

WHEREAS, the applicant submitted the following documents in evidence:

- A-1: Variance application (3 pages);
- A-2: Letter from DALE LEUBNER, Zoning Officer, dated 1/28/15 regarding building height;
- A-3: Letter from DALE LEUBNER dated 2/23/15 regarding building height;
- A-4: Survey by RICHARD STOCKTON dated 11/1/13;
- A-5: Surveyor's report by RICHARD STOCKTON dated 2/4/15;
- A-6: Proposed Raised Foundation and Renovation Plan by JOSEPH M. TINLEY, JR. dated 4/28/14, revised 9/9/14 (3 pages );

**Borough of Highlands  
Zoning Board of Adjustment  
Regular Meeting**

**July 2, 2015**

A-7: Foundation and Renovation Plan by JOSEPH TINLEY, JR., of KON Struction dated 7/25/14, revised 4/28/15;

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

B-1: Board Engineer review letter dated 3/26/15 (4 pages with aerial photo attached);

O-1: Elevation certificate for King dated 8/13/13 and 2/24/15 with 14 photos

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

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

2. This home was substantially damaged during Super Storm Sandy, and has since been raised and reconstructed, although the construction was contrary to the plans approved by the construction department.

3. The applicants received approval from the Highlands Construction Department to rebuild their home in accordance with plans submitted, which plans did not provide for a structure at the height actually built.

4. While the home was under reconstruction, a stop work order was entered. That stop work order was subsequently rescinded, so that the property owner could close in and protect the structure until it was determined what would be permitted by the Board. As of the April 2, 2015, meeting, the dwelling had been sided, the roof partially done with an ice shield installed, and interior work and roughing had been undertaken.

5. The applicant proposes a home with four levels, the top three of which are for living space. The first level is for parking only. The second level is the prior first level of the home, which has been raised. The third level is part of the old structure, with an addition. The fourth level is all new.

6. The Board spent an inordinate amount of time attempting to interpret the exhibits provided by the applicant. In doing so, the Board rejected the calculations of JOSEPH M. TINLEY, JR. on his proposed Raised Foundation and Renovation Plans, since there does not appear to be any basis for the calculations he used for the heights of the various floors vis-à-vis the elevation of the property; plus, he failed to include the dimensions between the first and second level, the second and third level, and the third and fourth level. When the Board attempted to extrapolate and determine what the precise measurements were, they did not match up against the information provided by the applicant's surveyor. As a result, the board, by unanimous vote during the hearing, rejected the calculations provided by MR. TINLEY.

7. When the construction began, the property owners changed from 8-inch block to 12-inch block, though they did not return to the borough to seek approval for that change.

8. Prior to this construction project the home was a 1 1/2-story structure.

9. The footprint of the building did not change from the old structure to the new one.

10. The other houses on the street are topping out at the height permitted by the zoning ordinance.

11. The current roof, under construction, is a hip roof.

12. The Board determined, with input from the Board Engineer, that the correct flood zone is the AE-12 Zone. As such, you must add one foot, and begin construction at least 13 feet above the base flood elevation. Based on these requirements, the permitted height of the structure would be 32.5 feet under the ordinance.

13. This structure exceeds the height allowed by ordinance. The Board, with the Board Engineer's input, calculates the height of the structure, as defined by ordinance (to the midline of the roof) as 35.3 feet. As such, the applicant requires a variance for 2.8 feet, making this a C/hardship variance application for height.

14. The applicants seek the following relief:

**Borough of Highlands  
Zoning Board of Adjustment  
Regular Meeting  
July 2, 2015**

A. Lot area variance for 1,750 s.f., where 3,750 s.f. are required; a pre-existing condition.

B. Lot frontage of 25 feet, where 50 feet are required, a pre-existing condition.

C. Lot depth of 70 feet, where 75 feet are required, a pre-existing condition.

D. Front yard setback of 9.4 feet, where 20 feet are required, a pre-existing condition.

E. Rear yard setback of 17.4 feet, where 20 feet is required, a pre-existing condition.

F. Side yard setbacks of 2.5/2.6 feet, where 6/8 feet are required, a pre-existing condition.

G. Building coverage of 43.14%, where 33% is allowed, a pre-existing condition.

H. Rear setback for first story rear deck of 0 feet, where 3 feet are required, a pre-existing condition.

I. Side yard setback for first story rear deck of 0/2.8 feet, where 3 feet are required, a pre-existing condition.

J. Side yard setback for first story front deck of 2.75/4 feet, where 3 feet are required, a pre-existing condition.

15. The applicants also seek new variance relief for the following:

K. Building height of 35.3 feet, where 32.5 feet is permitted.

16. Currently, the owners' deck extends onto property owned by MR. KING (11 Seadrift Avenue). That deck must be removed.

17. In order to obtain bulk variance relief, the applicant must satisfy the positive criteria under N.J.S.A. 40:55D-70c. To do so, the applicant must either prove a hardship in developing the site in accordance with the zone standards due to exceptional narrowness, shallowness or shape of the property; or due to exceptional topographic conditions or physical features which uniquely affect the property; or are due to an extraordinary and exceptional situation affecting the property or its lawful existing structures. In this case, the applicant hasn't provided any proof of hardship to exceed the height limitations in the ordinance. Though the property is narrow, that narrowness does not justify adding a fourth level to the home at the height at which it was constructed. Lastly, there are no extraordinary or exceptional situations affecting the property, nor are there any exceptional topographic conditions or physical features.

18. One alternative to satisfy the positive criteria is for the applicant to demonstrate that the variance relief will promote a public purpose, as set forth in N.J.S.A. 40:55D-2, and thereby provide improved community planning that benefits the public; plus prove that the benefits of the variance substantially outweigh any detriment. In this case, the applicant has not provided any proofs that the variance relief sought will promote a public purpose. Neither has the applicant provided any proof that community planning will be improved. Lastly, no proofs have been provided that the benefits of the requested variance substantially outweigh any detriment. The detriment, of course, is that the height exceeds the ordinance and, according to the applicant's own testimony, since the other homes meet the ordinance requirements, this home would be an exception, with no underlying basis for the exception.

19. In addition to meeting the positive criteria of the statute, the applicant must also meet the negative criteria, as required by N.J.S.A. 40:55D-70c. In doing so, the applicant must show that the bulk variances can be granted without substantial detriment to the public good or substantially impairing the intent and purpose of the zone plan. In doing so, the applicant must provide proofs that provide consideration of the impact of the proposed variances on surrounding properties, so that the Board could determine whether or not the variance would cause such damage to the character of the neighborhood as to constitute a substantial detriment to the public good. The Board does not find that the requested variance would not cause damage to the character of the neighborhood or not be a substantial detriment to the public good. Accordingly, the negative criteria has not been met.

**Borough of Highlands  
Zoning Board of Adjustment  
Regular Meeting  
July 2, 2015**

20. Though requested to provide a grading plan, the applicant has not done so. Had the application been granted, a grading plan would have been required, with a need to approve the same before any construction permit was granted.

WHEREAS, the application was heard by the Board at its meetings on April 2 and May 7, 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 CHRISTINE FLYNN to rebuild her home at a height of 35.3 feet (2.8 feet above what is allowed by ordinance), together with variances for the pre-existing conditions set forth in paragraph 14 be and the same is hereby DENIED. Seconded by Ms. Pezzullo and adopted on the following roll call vote:

**ROLL CALL:**

**AYE: Mr. Mullen, Ms. Pezzullo, Ms. Ziemba**

**NAY: None**

**ABSTAIN: None**

---

**ZB# 2015-3 Digaletos, John – 2 Seadrift Ave, Block 77 Lot 9.01**

**Approval of Resolution**

Mr. Kutosh offered a motion and moved on the memorialization of the following Resolution:

7/2/15

**RESOLUTION APPROVING BULK VARIANCES  
FOR DIGALETOS**

WHEREAS, the applicant, JOHN DIGALETOS, is the owner of a single family residential property at 2 Seadrift Avenue in the Borough of Highlands (Block 77, Lot 9.01); and

WHEREAS, the applicant filed an application for variance approval to construct a new single-family dwelling with a covered deck in the front and a rear open deck on a smaller footprint than his prior dwelling, which was substantially damaged during Superstorm Sandy; 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 4, 2015; and

WHEREAS, the Board heard the testimony of the applicant, JOHN DIGALETOS and his brother, MARINO DIGALETOS. No other person appeared to ask questions or object to the application; and

WHEREAS, the applicant submitted the following documents in evidence:

- A-1 Variance application (3 pages);
- A-2 Zoning permit application with denial by Zoning Officer dated 12/29/14;
- A-3 survey by Frank R. DeSantis dated 12/3/13;
- A-4 Architectural plans by Robert Gorski dated 10/21/14, last revised 12/6/14 (3 sheets);
- A-5 Unsigned construction plans last revised 11/13/14 (8 pages)
- A-6 Architectural plans by Robert Gorski dated 10/21/14, last revised 6/1/15.

**Borough of Highlands  
Zoning Board of Adjustment  
Regular Meeting  
July 2, 2015**

AND, WHEREAS, the following exhibit was marked into evidence as a Board exhibit:  
B-1 Board Engineer, Robert Keady, review letter dated 4/30/15 (4 pages plus aerial photo);

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, in which single-family residences are permitted.

2. The site previously contained a single family residence, which home was substantially damaged during Superstorm Sandy in October 2012.

3. The applicant has already obtained construction permits and has completed the bulk of the construction of his new home. During construction, the applicant decided he would like to add a secondary deck, which addition prompted the need for variance relief.

4. The reason for marking two sets of architectural plans (A-4 and A-6) was because of the many errors made in the architect's mathematical computations. Also, the second exhibit (A-6) was not supplied to the Board or its engineer until the night of the hearing, as a result of which the Board Engineer's review letter did not have the benefit of the later-revised architectural plans.

5. Because the applicant is requesting a second story deck, a building coverage variance is implicated.

6. The new structure is actually shorter in depth than the prior home.

7. Off-street parking for at least two vehicles is provided, so no parking variance is required.

8. The applicant is raising the structure in order to comply with the new flood zone requirements.

9. The footprint of the structure will be similar, yet smaller, than the prior home, plus it is being centered on the lot, rather than so close to the side line, as was the prior home. The Board finds this to be a significant improvement.

10. The applicant seeks the following relief for the conditions noted, all of which are the same as the prior home:

A. Lot area variance for 1,750 square feet, where 3,750 square feet are required; which is the same as the previous home.

B. Lot frontage of 25 feet, where 50 feet are required; which is the same as the previous home.

C. Lot depth of 70 feet, where 75 feet are required; which is the same as the previous home.

D. Front yard setback of 10 feet, where 20 feet are required; which is the same setback as the previously approved home.

E. Side yard setbacks of 3/4 feet, where 6/8 feet are required; which are the same setbacks as the previously approved home.

11. In addition, the applicant seeks variance relief for the following:

F. Building coverage of 39.77% where 33% is permitted; the prior approved home had coverage of 32.9%.

G. Front yard setback for the second story front deck of 10 feet, where 20 feet are required.

H. Side yard setbacks for the second story front deck of 3/4 feet where 6/8 feet are required.

I. Front yard setback for the first story front deck of 10 feet, where 20 feet are required.

**Borough of Highlands  
Zoning Board of Adjustment  
Regular Meeting  
July 2, 2015**

J. Side yard setback for the first story front deck of 3/4 feet, where 6/8 feet are required.

12. The raising of this residential structure in accordance with the new flood zone requirements has improved the subject property, made it safer, and also improved the neighborhood. This application will also preserve the neighborhood character.

13. This application was made as a result of damage caused by Superstorm Sandy, which devastated many properties within the borough. The applicant is, basically, seeking to rebuild his storm-damaged dwelling. As a result, the Board finds that the positive criteria required for bulk variance relief under N.J.S.A. 40:55D-70(c) has been met.

14. This application will not cause any substantial detriment to the public good, nor will it substantially impair the intent and purpose of the zone plan and zoning ordinance. Further, it will not have any negative impact on the surrounding properties.

WHEREAS, the application was heard by the Board at its meeting on June 4, 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 JOHN DIGALETOS to rebuild his single family home as set forth on the plans submitted is hereby approved. Accordingly, bulk variances are granted as requested and set forth in paragraph 10, subparagraphs A through E for preexisting conditions of lot area, lot frontage, lot depth, front yard setback and side yard setbacks, as more specifically set forth in those paragraphs. In addition, variance relief is granted for building coverage, front and side yard setbacks for the second story front deck, and front and side yard setbacks for the first story front deck, as set forth in paragraph 11, subparagraphs F through J.

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

A. Any damage during construction which is caused to the existing pavement, sidewalk and curb shall be repaired or replaced to the satisfaction of the borough.

B. Applicant shall verify with NJDEP (i.e., he may be eligible for a NJDEP permit by rule), and obtain any and all necessary permits.

C. Review of the building elevation is deferred to the Flood Plain Officer.

D. There shall be ADA compliance for the sidewalk and driveway apron.

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

**ROLL CALL:**

**AYE: Mr. Fox, Mr. Kutosh, Mr. Mullen,  
Mr. Braswell**

**NAY: None**

**ABSTAIN: None**

---

**ZB#2015-4 Fitzpatrick, Andrew**

**30 Gravelly Point Road**

**Block 100 Lot 26.30**

**Hearing on New Business**

**Present: Christine Fitzpatrick  
Evin Hill**

**Conflict: Mr. Braswell stepped down.**

Mr. Baxter swore in the following people:

1. Christine Fitzpatrick of 30 Gravelly Point, Road, Highlands

**Borough of Highlands  
Zoning Board of Adjustment  
Regular Meeting  
July 2, 2015**

2. Evin Hill, P.E. of Mount Laurel NJ
3. Robert Keady, P.E. Board Engineer

Mr. Hill stated the following during his testimony and response to questions from the board:

1. He described his professional background to the board.
2. 30 Gravelly Point is a 1800 square foot lot.
3. The previous house had encroached on the front and side yards.
4. In 2012 the home was damaged by Hurricane Sandy.
5. The REM Program approved this as substantially damaged
6. It's a narrow lot.
7. Because of lack of parking they decided to provide two parking spaces under the house.
8. Variance needed for height of 3 feet so can park under house.
9. Side yard setback variance needed for steps because of underneath parking. Need side yard variance for stairs for 2.8 feet, where 3 feet is required.
10. It will be a two story house.
11. This will not substantially impact the neighbors.
12. This is a REM project and the state will not allow us to reconfigure the plan of the house.
13. There will be a solid block foundation to knock out in the future for a garage door.
14. The height to the ceiling of the garage is 8 feet.
15. The lowest level use will be for a future garage and storage.

Mr. Baxter explained the variances were for building height of 25.85 feet, where 22.5 feet is permitted and side yard setback for stairs of 2.8 feet, where 3 feet is required. He stated that Mr. Keady wanted to confirm distance between houses exceeds six feet.

Mr. Hill stated it would be more than six feet.

Mr. Mullen questioned the grade.

Mr. Keady stated there is a 37.85 feet elevation to the roof, the flood elevation is 11 feet which he further explained.

Mr. Hill spoke of the positive criteria for granting "d" variance and stated the site is suitable for the use. Special reasons, they need to provide off street parking and the hardship is the REM program restrictions. The negative criteria, there is no negative impact to the neighbors and is not out of character of the neighborhood.

Mrs. Fitzpatrick stated her neighbor is taller and there would be no impact and she will now have parking underneath the house.

Discussion on the REM requirements.

Public questions – there were none.

Public comments – there were none.

Mr. Knox offered a motion to approve the application along with the variances. Seconded by Mr. Mullen and approved on the following roll call vote:

**ROLL CALL:**

**AYE: Mr. Fox, Mr. Kutosh, Mr. Knox, Mr. Mullen, Ms. Pezzullo, Ms. Ziemba**

**NAY: None**

**ABSTAIN: None**

**Mr. Braswell returned to the table.**

---

**ZB# Branin, Keri  
66 Miller Street, Block 59 Lot 8  
Hearing on New Business**

**Borough of Highlands  
Zoning Board of Adjustment  
Regular Meeting  
July 2, 2015**

**Present: Keri Branin**

Mr. Mullen questioned if he had a conflict because the applicant's father is working on his home.

Mr. Baxter stated that it could be a conflict.

Mr. Mullen stepped down.

Mr. Braswell stated that the applicant's father has done construction work on the Gravelly Point Road where he lives.

Mr. Baxter did not feel Mr. Braswell had a conflict. He then stated that he has reviewed the public notice and mailing receipts and finds everything acceptable therefore the board has jurisdiction to proceed.

The following documents were marked into evidence:

- A-1: Variance Application;
- A-2: Zoning Denial;
- A-3: Site Plan Application;
- A-4: Minor Site Plan dated 5/21/2015;
- A-5: Picture of Lights – two photographs;
- A-6, A-7, A-8: Three Photographs of the site;
- B-1: Board Engineer Letter dated 6/29/2015.

Mr. Baxter explained to the applicant that this application is for a use variance which requires five affirmative votes.

Mr. Baxter swore in the following:

Martin Truscott, P.P. of T & M Associates, 11 Tindall Road, Middletown, NJ.  
Keri Branin, 52 Huddy Avenue, Highlands, NJ.

Ms. Branin handed out exhibits A-6 through A-8 which were photographs of the site which she described. She then spoke about the site plan and the lights and awning. She is extending the use for the tables in back of the building.

Mr. Baxter read through the variances for this application as listed in the Board Engineers letter marked as exhibit B-1.

Mr. Keady stated that the building height is not changing and there are two use variances plus all of the bulk variances. He then asked if the patio will exceed onto the grass.

A discussion occurred about the required number of onsite parking spaces required for the two buildings and all of the uses. Total number of spaces required is 11 and they are proposing two so the applicant needs a parking variance for nine spaces that they do not have.

Ms. Branin stated that she is keeping the two existing onsite parking spaces.

Mr. Keady spoke about ADA requirements for a bathroom and that the falls under the jurisdiction of the Construction Official.

Ms. Branin stated that there are offsite parking on the street and that her property is located adjacent to a commercial property.

Mr. Keady spoke of section 21-83 of the Zoning Ordinance and the permitted uses in the business district and parking requirements. Section 21-65.14 refers to off street parking. He stated that there are two parking spaces required for the residential use. Section 21-65.14 (d) number three refers to parking requirements for nonresidential zone.

The Board had discussions on the requirements parking ordinance and ADA parking.



**Borough of Highlands  
Zoning Board of Adjustment  
Regular Meeting  
July 2, 2015**

Mr. Keady stated that one space needs to be ADA compliant. He then spoke about the parking deficiency fund ordinance.

Ms. Branin stated that she will be installing a bike rack and that this was a seasonal business. She stated that she wants to attract walking traffic. This is a pre-existing commercial use it used to be a card shop.

A discussion occurred between Ms. Branin and the board about the use of the first floor of building A as being limited to business commercial, personal service establishment. There will be triple uses on the site.

Ms. Branin stated that she is not going to raise building B. She stated that there is parking available behind the municipal building. She will have a six foot fence between her property and Mrs. Rugg's property.

Ms. Pezzullo stated that parking is an issue and a discussion continued about the parking.

Mr. Keady explained that there is a parking deficiency ordinance and that the applicant can pay the required fee for nine spaces which would cost \$450.00.

The board again discussed the lack of onsite parking.

Mr. Keady stated that the applicant meets the criteria for the parking variance. He then spoke about possibly changing the site plan to create a third onsite parking space.

Ms. Branin explained that she can't and that there is a power line on site that she cannot relocate. She then spoke about how she wants to landscape the front of the property and along the ADA ramp on building B and at some point she would like to redo the sidewalks.

Mr. Braswell reviewed the list of variances and stated that most of them are preexisting.

Mr. Keady stated that the site plan show tables on the grass area.

Ms. Branin stated that the tables are not drawn to the exact locations. She then described lighting referring to exhibit A-3. She then spoke about removing some onsite concrete to provide for grass. She spoke about pavers and landscaping.

Mr. Keady stated that with the ramp a lot coverage variance will be needed.

The board recommended that she modify the site plan.

Mr. Keady asked how the board could verify the calculations.

Mr. Braswell stated that he wants to see a revised drawing with the concrete removed and the handicap ramp on it to comply with lot coverage and lighting requirements.

Mr. Keady stated that the handicap space will create a lot coverage variance.

The Board discussed location of handicap space and ramp and the design waiver required for the curb cut.

Mr. Baxter explained to the applicant that she can bifurcate the application to do the use variance first then can do the site plan after.

Ms. Branin stated that there are a lot of commercial spaces that do not provide handicap parking. She stated that she will have a handicap bathroom and a ramp.

Mr. Truscott stated that any on street handicap space would require Council approval.

**Borough of Highlands  
Zoning Board of Adjustment  
Regular Meeting  
July 2, 2015**

Ms. Branin stated that the building existed before handicap requirements. She stated that she would be happy to change the grade of the sidewalk for construction of offsite handicap parking.

Mr. Keady described onsite parking location if wire were moved.

Ms. Branin stated that she is not able to pay to move the utility pole. She then spoke about the residential outdoor living space area and that this is a seasonal business.

Mr. Keady advised the applicant to have her engineer reach out to the Department of Justice to make determination on the handicap parking. He stated that he would meet with her engineer to work on this.

Ms. Branin then agreed to bifurcate the application first the use then bulk and site plan. She then stated that the adjacent property is opening up.

Mr. Braswell and Mr. Baxter explained to the applicant again the need for five affirmative votes.

Mr. Baxter stated that there are two use variances one for the expansion and for multiple uses.

Michelle Pezzullo stated that she is still confused about the use in building A.

Mr. Braswell asked Mr. Baxter if the board can make a condition of no retail being permitted for building A.

Mr. Truscott if it's an office use then the parking would be one space per 200 feet.

Mr. Braswell explained to applicant that an office is use means less parking requirements. He then stated that he is happy with the character of the ice cream shop..

Ms. Branin then stated that she would be okay with no retail use in building A being permitted.

#### Public Questions

Mae Rugg questioned which building was going to be used for the ice cream shop.

Ms. Branin described the building and stated that she would build a fence between her property and Mrs. Rugg's property.

Mae Rugg questioned the hours of operation of the ice cream shop.

Ms. Branin explained would probably be open between April and October until 10 pm and on weekends open until 11 pm.

Mae Rugg was then sworn in and stated that she is concerned with trash being an issue.

Ms. Branin stated that she will keep her property neat and that the trash would be on the other side of her property. She then stated that she did not want to be limited to seasonal months and discussed a 12 month operation. If the town evolves may want to operate 12 months out of the year not passed 11 p.m. It will be an ice cream product and at some point she may do a soup shop in the winter so she would be doing novelty food all year.

Mr. Truscott then read through the engineer's letter and spoke about the site being particularly suitable and the special reasons testimony. The negative criteria is the parking and there no substantial detriment

Ms. Ziembra offered a motion to approve the two uses and patio expansion, multiple uses commercial use on first floor and residential above and the other building in front is for ice cream shop. Seconded by Mr. Knox and approved on the following roll call vote:

#### **ROLL CALL:**

**AYE: Mr. Fox, Mr. Kutosh, Mr. Knox, Ms. Pezzullo, Ms. Ziembra, Mr. Braswell**

**Borough of Highlands  
Zoning Board of Adjustment  
Regular Meeting  
July 2, 2015**

**NAY:           None**  
**ABSTAIN:   None**

Mr. Kutosh then offered a motion to carry the site plan and bulk variance application to the next meeting with no further public notice. Seconded by Mr. Knox and all were in favor.

---

**Approval of Minutes:**

Mr. Mullen offered a motion to approve the June Minutes seconded by Mr. Kutosh and approved on the following roll call vote:

**ROLL CALL:**

**AYES:                 Mr. Fox, Mr. Kutosh, Mr. Mullen, Mr. Braswell**  
**NAY:                 None**  
**ABSTAIN:           None**

Mr. Kutosh offered a motion to adjourn the meeting, seconded by Mr. Knox and all were in favor.

The meeting adjourned at 10:39 PM.

---

Carolyn Cummins, Board Secretary