

**Borough of Highlands
Zoning Board of Adjustment
Reorganization/Regular Meeting
January 7, 2016**

Meeting Location: Robert D. Wilson Memorial Community Center, 22 Snug Harbor Avenue, Highlands, NJ.

Mr. Braswell called the meeting to order at 7:38 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 board.

ROLL CALL:

Present: Mr. Knox, Mr. Mullen, Mr. Colby, Mr. Braswell

Absent: Mr. Fox, Ms. Pezzullo, Ms. Ziemba

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

Reorganization

Appointment of Chairperson

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

**BOROUGH OF HIGHLANDS
ZONING BOARD RESOLUTION
DESIGNATING CHAIRPERSON
FOR THE YEAR 2016**

BE IT RESOLVED by the Borough of Highlands Planning Board that Ken Braswell be appointed Chairperson of the Zoning Board for a term of one (1) year expiring December 31, 2016.

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

ROLL CALL:

AYES: Mr. Mullen, Mr. Knox, Mr. Colby

NAYES: None

ABSTAIN: None

Appointment of Vice Chairperson

Mr. Mullen 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 2016**

BE IT RESOLVED by the Borough of Highlands Zoning Board of Adjustment that Robert Knox be appointed Vice Chairperson of the Zoning Board for a term of one (1) year expiring December 31, 2016.

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

ROLL CALL:

AYES: Mr. Knox, Mr. Mullen, Mr. Colby, Mr. Braswell

NAYES: None

ABSTAIN: None

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Appointment of Board Attorney

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

**RESOLUTION APPOINTING ZONING BOARD ATTORNEY
FOR THE CALENDAR YEAR 2016
AUTHORIZING THE AWARD OF A NON-FAIR AND OPEN CONTRACT
FOR PROFESSIONAL LEGAL SERVICES**

WHEREAS, there exists the need for Professional Legal Services to be provided to the Zoning Board for the calendar year 2016; and

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

WHEREAS, the law office of Caruso has completed and submitted a Business Entity Disclosure Certification which certifies that the law office of 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 the law office of 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 Board Secretary; and

WHEREAS, 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.

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

1. Greg Baxter, Esq. of the law office of Caruso & Baxter is hereby appointed as Zoning Board Attorney for the period of January 1, 2016 through December 31, 2016 and said appointment is made as a non-fair and open contract.
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 shall be placed on file with the Zoning 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. Mullen and adopted on the following roll call vote:

ROLL CALL:

AYES: Mr. Knox, Mr. Mullen, Mr. Colby, Mr. Braswell
NAYES: None
ABSTAIN: None

Approval of Board Attorney Contract

Mr. Mullen 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**

**Borough of Highlands
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&
APPROVING 2016 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, 2016 through December 31, 2016; 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

WHEREAS, Greg Baxter, Esq. of Caruso & Baxter was appointed as Zoning Board Attorney for the calendar year 2016 on January 3, 2016; and

WHEREAS, Greg Baxter, Esq. of the law office of has submitted the attached 2016 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 2016 Municipal Budget as follows:

Zoning Board Budget \$ 10,832.00

For Legal Services for the Period of January 1, 2016 through December 31, 2016.

Patrick DeBlasio, 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, 2016 through December 31, 2016 for an amount not to exceed \$10,832.00 and that the attached contract for 2015 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.

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4. The Board Secretary is hereby directed to publish notice of this award as required by law. Seconded by Mr. Knox and adopted on the following roll call vote:

ROLL CALL:

AYES: Mr. Knox, Mr. Mullen, Mr. Braswell, Mr. Colby
NAYES: None
ABSTAIN: None

Appointment of Board Engineer

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

**RESOLUTION APPOINTING ZONING BOARD ENGINEER FOR THE CALENDAR
YEAR 2016 & AUTHORIZING THE AWARD OF
A NON-FAIR AND OPEN CONTRACT**

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 2016 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 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 Zoning Board as follows:

1. T & M Associates is hereby appointed as Zoning Board Engineer for the calendar 2016 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. Mullen and adopted on the following roll call vote:

ROLL CALL:

AYES: Mr. Knox, Mr. Mullen, Mr. Colby, Mr. Braswell
NAYES: None
ABSTAIN: None

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Appointment of Board Secretary

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

**BOROUGH OF HIGHLANDS
ZONING BOARD RESOLUTION
APPOINTING BOARD SECRETARY
FOR THE YEAR 2016**

BE IT RESOLVED by the Borough of Highlands Planning Board of the Borough of Highlands that Carolyn Cummins be appointed Secretary of the Zoning Board for a term of one (1) year expiring December 31, 2016.

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

ROLL CALL:

AYES: Mr. Mullen, Mr. Braswell, Mr. Knox, Mr. Colby

NAYES: None

ABSTAIN: None

Approval of 2016 Meeting Schedule

Mr. Braswell 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 2016**

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 2016. The official meeting days shall be the first Thursday of each month unless otherwise noted.

February 4, 2016
March 3, 2016
April 7, 2016
May 5, 2016
June 2, 2016
July 7, 2016
August 4, 2016
September 1, 2016
October 6, 2016
November 3, 2016
December 1, 2016
January 5, 2017 Regular/Reorganization

BE IT FURTHER RESOLVED that all meetings will be held at the Robert D. Wilson Memorial Community Center, 22 Snug Harbor Avenue, Highlands, NJ 0772 at 7:30 p.m.

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

ROLL CALL:

AYES: Mr. Braswell, Mr. Knox, Mr. Mullen, Mr. Colby

NAYES: None

ABSTAIN: None

Designation of Official Newspapers

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

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**BOROUGH OF HIGHLANDS
ZONING BOARD RESOLUTION
DESIGNATING THE OFFICIAL NEWSPAPER
FOR THE YEAR 2016**

BE IT RESOLVED by the Borough of Highlands Planning Board that the **Asbury Park Press, Two River Times** are hereby designated as the official Newspaper for the Borough of Highlands Zoning Board publications which are required by law for the year 2016.

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

ROLL CALL:

AYES: Mr. Mullen, Mr. Knox, Mr. Braswell, Mr. Colby

NAYES: None

ABSTAIN: None

**ZB# 2015-8 Colaci, Kathleen
88 Seadrift Avenue – Block 74 Lot 3
Public Hearing**

Present: Kevin Kennedy, Esq.
Kathleen Colaci, Applicant
Chris Adler, Builder

Mr. Kennedy stated that the Applicant is a Sandy Victim and is still to this day displaced. So this application should be called “Bring Kathy Home Application”. There are many reasons to justify the variances that are required. There is an existing single-family home and they want to put a new single-family home up which will be smaller than the existing home. The structure will be FEMA compliant and will be in character with the area.

Mr. Baxter stated that he has reviewed the notices and mailing receipts and finds everything to be in order therefore the Board has jurisdiction to proceed. He then read through the exhibits that were marked into evidence this evening as follows:

- A-1: Variance Application;
- A-2: Zoning Denial;
- A-3: Elevation Certificate by Marc Cifone dated 3/31/14;
- A-4: Survey by Marc J. Cifone dated 3/31/14;
- A-5: Timber Pile Plan by J. David Calfert, with Zoning Table;
- A-6: RREM Program plans by Richard F. Johnson dated 4/7/15;
- A-7:(A-D) Pictures taken with week of Superstorm Sandy;
- A-8: Code Enforcement information of 12/11/15 from D. Mercado;
- A-9: (A-C) Three pictures of streetscape;
- A-10: Google photograph of existing house.
- B-1: Board Engineer review letter dated 12/23/15.

Mr. Baxter swears in Robert Keady, P.E., Kathleen Colaci and Chris Adler.

Mr. Kennedy then begins his questioning of Kathleen Colaci. Ms. Colaci stated the following during her testimony and response to questions from the board:

1. She is the owner of the property and lived there until 2013.
2. The existing structure is 100 square feet and is a one story dwelling with an attic with two bedrooms one bath and no off street parking.
3. October 2012 Sandy hit and she was evacuated from her home.
4. She had five feet of water in her home and she lost everything.
5. She has photographs that were taken the Monday after Sandy hit. She then described the post Sandy photographs which were marked as Exhibit A-7 A-D. The photos were of her Sandy damaged home.

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6. The town issued her a substantial damage letter for her home.
7. All of the utilities were disconnected after Sandy.
8. She moved out of town after Sandy and stayed with family. She then rented an apartment and then in November moved back with her daughter, she is displaced.
9. The home needs to be demolished because it's unlivable.
10. She received a warning notice from the town to clean the property up which was marked as Exhibit A-8.
11. She has since spoken with the Code Enforcement Officer.
12. She is going to build a new single-family home which will be only 806 square feet, smaller than existing.
13. She proposes a single-family home with two bedrooms, one bath and no garage. Off street parking existing is none and the proposed is none.
14. She applied for the RREM Grant Program and the house has to be about the same size as existing.
15. The front setback is 3.3 feet and the proposed is 4 feet. Currently the front yard setback is in line with neighbors properties.
16. A-10 google photo of site was shown.
17. She had a hard time with RREM program builders and stated that past three years has been terrible.
18. She is ready to proceed now and wants to go home to 88 Seadrift Avenue.

Public Questions - there were none.

Chris Adler, Builder of Americas Home Place began his testimony. He stated the following during his testimony and response to questions from the board:

1. He spoke about his company and stated they were one of the initial builders assigned by RREM.
2. He is familiar with the house and the plans.
3. He explained what it means to be fitted for RREM as a builder you must have bonding, financial stability which he further explained.
4. RREM Grant stands for Reconstruction Rehabilitation Elevation Mitigation Grant Program.
5. He then explained the grant process and that the building footprint must be the same. The program has preapproved plans ready and drawn and they try to match you up to a house that you had.
6. The size of the applicant's lot restricted her.
7. She is a RREM recipient with RREM plans.
8. The property is 25 by 70, 1750 square feet and is an existing non-conforming lot.
9. The proposed two bedrooms, one bath elevated home that will be 810 square feet of living space. It is 15 – 20% smaller than the existing home.
10. Under RREM you can't go more than 300 square feet larger.
11. There are no issues with restoring the utilities.
12. The new home location is slightly further back and is narrower but is more conforming.
13. The front yard setback, she lines up with three or four and the average is similar to what's on the street. She cannot comply with the 25 foot set setback requirement.
14. The proposed will not look out of character and is consistent with other homes.
15. The rear yard setback, reducing it by a couple of feet but they can't meet the requirements.
16. Side yards the new is 7 ft. which is 4/3 and the existing is 1.6 so the proposed is an improvement.
17. Building Coverage, the existing is 58% and the proposed is 48% so they can't comply with the permitted 33%.
18. Existing front stairs are .08 existing encroachment will be eliminated.
19. The height is 29 feet which will be compliant.

Mr. Keady explained height measurement so it's actually lower.

Mr. Adler continued his testimony as follows:

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20. Off street parking, the RREM will not allow her to build a garage. There would be no way to access it.
21. Parking underneath structure, the RREM won't pay for it.
22. They will comply with FEMA regulations and grant regulations.
23. Mechanicals will not be located under the structure.
24. He has reviewed B-1 and has no issues with the Engineers Letter.
25. Once a resolution is approved and adopted they will apply for building permits.
26. Not able to build a non-variance home on the subject property.

Mr. Mullen questioned the builder about the location of the proposed structure. He spoke about the need for off street parking and asked what about parking on the side of the house and move the location of the staircase and to relocate the entry to the home.

Mr. Adler stated that staircase would have to be narrower and would go to property line and that there are expenses for a new curb cut.

Mr. Mullen stated tis a very appropriate development for this lot.

Public Questions – there were none.

Public Comments – there were none.

Mr. Baxter read through the variances from the Board Engineer Letter.

The board briefly discussed.

Mr. Mullen offered a motion to approve the application, seconded by Mr. Knox and approved on the following roll call vote:

ROLL CALL:

AYE: Mr. Knox, Mr. Mullen, Mr. Colby, Mr. Braswell

NAY: None

ABSTAIN: None

Review of 2015 ZB Annual Report

The Board reviewed the following report:

2015 ZONING BOARD ANNUAL REPORT

Date: December 30, 2015

Prepared by Carolyn Cummins, Board Secretary

ZB#2014-8 Williams, Christopher Approved 1/15/15
Block 80 Lot 5.01
70 Barberie Avenue

The Board approved the application to add a second driveway. Bulk variances were granted for lot area of 3,500 square feet, where 3,750 is required; front yard setback of 2.4 feet, where 20 feet is required; side yard setback of 1.8/28.6 feet, where 6/8 feet is required; side yard setback for accessory structure of 2 feet, where 3 feet is required.

ZB#2014-20 Rivera, Paschal Approved 1/15/15
Block 90 Lot 10
31 Waterwitch Avenue

The Board approved an application to add a second driveway and extend the roof at the rear to a total of 10 feet in depth. Bulk variances were granted for lot area of 3,000 square feet, where 3,750 is required; lot frontage of 37.5 feet, where 50 feet is required and front yard setback of 5 feet, where 20 feet is required.

ZB#2014-20 Wikander, Richard Approved 2/5/2015
Block 93 Lot 13.01
21-23 Snug Harbor Avenue

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The Board approved the application to add raise his two-family home and add a front deck for access to the dwelling. Bulk variances were granted for front yard setback of 10.26 feet, where 20 feet is required; side yard setbacks of 5.42/14.35 feet, where 6/8 feet is required; side yard setback for the shed of 2.96 feet, where 3 feet is required; front setback for front deck of 1.5 feet, where 3 feet is required. A design waiver was granted to permit a second driveway.

ZB#2010-A Quick Chek Approved 3/12/2015
Block 108 Lot 1.01
440 State Highway 36

The Board approved the application to install a permanent generator and granted bulk variance relief and an amendment to its final site plan approval for its convenience store and gas station operation. Variance approval was granted for the accessory structure distance from street line. The front yard setback from Ocean Blvd of 20.5 feet for the building, 25 feet for the canopy, and 12 feet for the trash enclosure, where 50 is required. Front yard setback from Route 36 for accessory structure (generator) of 25.2 feet, where 50 feet is required. Distance from accessory structure (generator) to street line of 25.2 feet, where 50 feet is required.

ZB#2013-4 Allen, Christopher Approved 5/7/2015
Block 99 Lot 16
5 Ocean Avenue

The Board approved the application to install two decks in the rear of the property, each 16' x 19 feet. Variances were for building coverage of 47.35%, where 30% is permitted. Side yard setbacks for rear deck on the second floor of 3/3 feet, where 6/8 feet is required.

ZB#2015-1 O'Neil, Wayne & Patricia Approved 5/7/2015
Block 99 Lot 25
27 Ocean Avenue

The Board approved the application to elevate and relocate their home back 10 feet and allow for an access stairway and off-street parking. Bulk variances were granted lot area of 2,500 square feet, where 5,000 is required; lot frontage of 25 feet, where 50 feet is required; side yard setbacks of 3.5/3.5 feet, where 6/8 feet is required; building coverage of 38.9%, where 30% is permitted.

ZB#2015-2 Flynn, Christine Denied 7/2/2015
Block 72 Lot 36
9 Seadrift Avenue

The Board denied the application to rebuild 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.

ZB#2015-3 Digaletos, John Approved 7/2/2015
Block 77 Lot 9.01
2 Seadrift Avenue

The Board approved an application to rebuild a single-family. Bulk variances were granted lot area of 1,750 square feet, where 3,750 is required; lot frontage of 25 feet, where 50 is required; lot depth of 70 feet, where 75 is required; front yard setback of 3/4 feet, where 6/8 is required; building coverage of 39.77%, where 33% is permitted; front yard setback of 10 feet, where 20 feet is required; side yard setbacks for the second story front deck of 3/4 feet, where 6/8 is required; front yard setback for the first story front deck of 10 feet, where 20 feet is required and side yard setback for the first story front deck of 3/4 feet, where 6/8 is required.

ZB#2015-4 Fitzpatrick, Christina & Andrew Approved 8/6/2015
Block 100 Lot 26.3
30 Gravelly Point Road

The Board approved the application to rebuild their existing flood-damaged single-family home and construct a new dwelling. A use variance was granted for the height of 25.85 feet and a bulk variance for the side yard setback for the front stairs of 2.8 feet, where 3 feet is required.

Approval of Minutes

The December 3rd Minutes were tabled to the next meeting because there were enough eligible members to vote on them.

Communications

**Borough of Highlands
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The Board had a lengthy discussion about Ordinance O-16-1 an ordinance Consolidating both the Zoning Board and the Planning Board.

Mr. Baxter explained to the board that the Zoning Board would disappear and the Planning Board would continue and that members are appointed by the Mayor.

Andrew Stockton, Planning Board Chairman was present and had discussions with the Zoning Board about not supporting this consolidation.

Bruce Kutosh was also present in the public and spoke with the board about this ordinance.

Mr. Mullen offered a motion to send a memo to the Governing Body advising them that the Zoning Board feels unfavorable about the adoption of Ordinance O-16-1. Seconded by Mr. Braswell and approved on the following roll call vote:

ROLL CALL:

AYE: Mr. Knox, Mr. Mullen, Mr. Colby, Mr. Braswell

NAY: None

ABSTAIN: None

Mr. Mullen offered a motion to adjourn the meeting, seconded by Mr. Knox and all were in favor. The meeting adjourned at 9:20 P.M.

Carolyn Cummins, Board Secretary