

Mr. Mintzer offered the following Resolution and moved on its adoption:
1/4/07

**RESOLUTION APPROVING USE AND BULK VARIANCES
FOR SHUTE AT 114 SHORE DRIVE**

WHEREAS, the applicant, EUGENE N. SHUTE, JR., is the owner of a 2-family home at 114 Shore Drive, Highlands, New Jersey (Block 59, Lot 35); and

WHEREAS, the owner filed an application to construct a second story addition consisting of three bedrooms, two baths, one laundry room and a deck; 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 November 2 and December 7, 2006; and

WHEREAS, the Board heard the testimony of the applicant, EUGENE N. SHUTE, JR.; RICHARD STOCKTON, Engineer and Planner; and MICHAEL COLBY; all on behalf of the applicant; and

WHEREAS, no one appeared in opposition or to ask questions about the application; and

WHEREAS, the applicant submitted the following documents in evidence:

A-1: Variance application (3 pages);

A-2: Elevation certificate by MR. STOCKTON;

- A-3: Flood review memorandum by MR. GILSON dated 8/30/06;
- A-4: Zoning permit application with denial by Zoning Officer, with zoning chart attached;
- A-5: Sketch plat by RICHARD STOCKTON dated 9/20/06;
- A-6: Copy of 6/14/00 C.O. and Fire Prevention Certificate No. 12512 for unit on left side;
- A-7: 9/30/05 survey by RICHARD STOCKTON;
- A-8: 4 photographs on 1 sheet;
- A-9: 5 pages of architectural plans prepared by MR. SHUTE;
- A-10: Copy of C.O. and Fire Prevention Certificate No. 12513 for unit on right side;
- A-11: Sewer bills for both units;
- A-12: Original of A-6;
- A-13: Original of A-10;
- A-14: Property record card from Tax Assessor dated 10/1/89;
- A-15: Property record card from Tax Assessor dated 10/1/03;
- A-16: Radius map of properties within 200 feet prepared by MR. STOCKTON;
- A-17: 12 photos (on 3 pages) of homes in the neighborhood;
- A-18: 8 photographs with drawing and 2 maps, all on board;

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-2.02 Zone.

2. The site currently contains a 2-family home in a 1-story residence.

3. The Borough's property record cards maintained by the Tax Assessor, the Certificates of Occupancy issued for both units, and the sewer bills for both units establish that there are two legal, yet non-conforming, residential units on the property.

4. The owner seeks to enlarge the structure, which enlargement will be an expansion of the prior non-conforming use.

5. The owner seeks to construct a second-story addition consisting of 3 bedrooms, 2 baths, 1 laundry room, and a 258 square foot deck on a .08 acre parcel.

6. This zone does not permit 2-family uses.

7. The owner seeks bulk variances for the following preexisting conditions:

A. Minimum lot area of 4,000 square feet, where 3,500 square feet is provided.

B. Minimum lot depth of 75 feet, where 70 feet is provided.

8. The applicant also seeks variances for the following:

A. Minimum front yard setback of 20 feet, where 12.5 feet is provided on the Shore Drive side.

B. Maximum building coverage of 33%, where somewhere between 36% and 39% (according to the Board Engineer) is provided.

C. Expansion of the non-conforming use.

D. Constructing a vertical addition of more than 80% of the original footprint. In this case, the addition is 100%.

9. The uppermost floor will be cantilevered. Most of it will be enclosed for living space; however, the easternmost portion will be an outside balcony/deck.

10. The stormwater runoff drains to the north (Valley Avenue).

11. There will be no further encroachment from the foundation to Shore Drive. The setback will be 17.5 feet from the foundation to the lot line, and 12.5 feet to the second-story overhang. When you add the 14-foot Borough-owned property in front, it gives a visual perception of 26.5 feet from the curb to the second-story overhang.

12. Visually, the property appears to have a more open front yard, which is because of the sliver of land owned by the Borough in front of the property on the Shore Drive side.

13. The existing foundation has been damaged, which will require the entire foundation to be replaced. The footprint, however, will remain the same.

14. There are no footings to this home.

15. Because of the property being raised out of the flood zone, the owner meets one of the special reasons set forth in N.J.S.A. 40:55D-2(b).

16. The other properties along the street do not have as much of a front yard setback from Shore Drive as the subject.

17. This proposal will promote the visual environment and be a good civic design, and a substantial improvement to the existing home, all in conformance with N.J.S.A. 40:55D-2(i). The new siding being added to the property will give it the look of a new home, which will be a credit to both the neighborhood and the Borough.

18. The proposed new structure is an "architectural fit" within the neighborhood. There are several other newer homes in the neighborhood, and this one will fit well with that streetscape.

19. The current structure has a footprint of 1,107 square feet. The addition will be 1,350 square feet, bringing the total to 2,457 square feet.

20. The size of the existing rooms, and the size of rooms requested and required by residents in this day and age, dictate that the rooms be enlarged so that the occupants have sufficient living space.

21. There will be 4 parking spaces on site (2 of which will be in the garage), which meets the requirements of the zone.

22. The owner intends for his mother and sister to take the first level unit, and for him to take the newer (upstairs) unit.

23. Considering the number of years for which this property has been a 2-family use, the Board does not find the proposed expanded use to be inconsistent with the intent and purpose of the Master Plan or the zoning ordinance.

24. Based on the current use, the Board finds that the property is particularly suited to continue that use as a 2-family home.

25. The proposed use will not be a substantial impairment to the intent and purpose of the zone plan and zoning ordinance. To the contrary, the proposed

addition and re-siding will fit in well with the character of the neighborhood and improve the streetscape in that area. The raising of the structure to take it out of the flood zone is also a substantial improvement, and the violation of the "80% Rule" has a very minimal impact.

WHEREAS, the application was heard by the Board at its meetings on November 2 and December 7, and this resolution shall memorialize the Board's action taken at the meeting on December 7, 2006;

NOW, THEREFORE, BE IT RESOLVED by the Zoning Board of Adjustment of the Borough of Highlands that the application of EUGENE N. SHUTE, JR. to expand the current 2-family home by constructing the addition shown on his plans marked in evidence be and the same is hereby approved. Variances are hereby granted for the preexisting conditions of lot area and lot depth, as more fully described earlier in this resolution. Variances are also granted for the uses (2-family and expansion of the prior non-conforming 2-family use). Variances are also granted for lot depth and building coverage, as more specifically defined earlier in this resolution.

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

ROLL CALL:

**AYES: Mr. Duncan, Mr. Braswell, Mr. Mintzer, Mr. Francy, Mr. Fox,
Mr. Mullen**

NAYES: None
ABSTAIN: None

DATE: January 4, 2007

CAROLYN CUMMINS, Board Secretary

I hereby certify this to be a true copy of the Resolution adopted by the Zoning Board of the Borough of Highlands on January 4, 2007.

Board Secretary