

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

4/5/07

**RESOLUTION APPROVING BULK VARIANCES  
FOR MAXSON AT 222 BAY AVENUE**

WHEREAS, the applicant, RICHARD MAXSON, is the owner of a one-story single-family home at 222 Bay Avenue, Highlands, New Jersey (Block 64, Lot 20); and

WHEREAS, the owner filed an application to add a second story to his garage, for storage purposes; 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 March 1, 2007; and

WHEREAS, the Board heard the testimony of the applicant, RICHARD MAXSON, and 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: Zoning permit application and denial, including Zoning Officer's bulk and area requirements chart;
- A-3: Hand-drawn plot plan by RICHARD MAXSON;
- A-4: Hand-drawn elevations (before and after) by RICHARD MAXSON;

A-5: Calculations by applicant regarding lot coverage;

A-6 (A through F) six 4" X 6" photographs;

A-7: Polaroid photograph;

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 one-story single-family home, a detached garage with attached icehouse, and a shanty, all in the rear yard.

3. The owner seeks to enlarge the garage to add a second level for storage only.

4. The applicant's father initially built the garage for use as a fish market, though it was never used for the same.

5. All of the current rear structures (garage, icehouse and shanty) are currently used for storage.

6. The house is quite small, and has little space for storage within it.

7. The applicant requested a variance to permit him to enlarge the garage, upward only, to a height of 21.5 feet, where the garage is currently 14 feet in height.

8. The ordinance limits the height of an accessory structure to 15 feet. The proposed addition to the garage will be 6.5 feet more than permitted by ordinance.

9. The height of the single-family home is 20 feet.

10. There will be no plumbing or plumbing facilities servicing the garage.

11. Though the garage formerly had heat, the heat source was removed 20 years ago and is not intended to be restored.

12. The applicant is a carpenter, mason and fisherman, and needs additional storage space to store his equipment. Also, if the application is granted, the applicant will remove the icehouse and shanty, both of which are currently used for storage and the boat locker, thereby cleaning and opening up the rear yard.

13. There are no buildings close to the applicant's property line on either the Rosenblum, Johnson or Smock neighboring properties.

14. Neither the current nor the enlarged garage will be used for residential purposes.

15. The applicant testified at length regarding how much easier and cheaper construction would be if

the variance were granted. The Board rejects that testimony as being irrelevant to the issues the Board must decide.

16. The garage floor is at ground level. The house is elevated 3 feet.

17. The Board was particularly concerned, and objected to, the height of the garage being greater than the height of the primary structure (i.e., the house).

18. There is also a 4' X 4' boat locker on the property, which belongs to LARRY COLBY. It will be removed, further cleaning up the rear yard, as part of the construction process.

19. Because the ground is relatively flat, the Board was perplexed in how to best deal with the water runoff from the new garage roof. The applicant intends to install gutters. Those gutters should direct the rainwater away from the neighboring properties and toward Bay Avenue, coming down the driveway.

20. The applicant proposes to put one regular-sized window in each of the two gables, on the north and south sides of the garage.

21. The applicant intends to put vinyl siding on the new addition, and leave the bottom in its current stucco condition, but repaint the same.

22. The current garage is large, by residential standards. In addition to the garage door, there is also another pedestrian door on the same side of the garage structure.

23. The applicant testified that he spoke to several of his neighbors, none of whom had any objection to his request. None of those persons, however, testified at the hearing.

24. The proposed garage enlargement will not be a substantial impairment to the intent and purpose of the zone plan and zoning ordinance and, based upon the testimony, the Board is empowered to grant this variance pursuant to N.J.S.A. 40:55d-70c(2).

25. All variances requested by the applicant, except for height, are for preexisting conditions. Those variances are for minimum lot size (3,750 square feet, where 4,000 square feet is required); minimum lot width (37.5 feet, where 50 feet is required); front yard setback (16.5 feet, where 20 feet is required); and side yard setback (18.5 feet/2.5 feet, where 6 feet/8 feet are required).

WHEREAS, the application was heard by the Board at its meeting on March 1, 2007, 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 RICHARD MAXSON to enlarge his existing garage by building a second floor to be used for storage only be and the same is hereby approved, but not for the height requested. Rather, the Board hereby gives permission to enlarge the garage on the condition that the sidewall height be no more than 5 feet above the existing top plate, and the maximum height of the ridge of the new garage shall be no more than 19.5 feet. Variances are hereby also granted for the preexisting conditions referred to above, those being for lot size, lot width, front setback and side setback.

AND BE IT FURTHER RESOLVED that these variances are granted upon the following additional conditions:

1. The icehouse, shanty and boat locker shall all be removed from the property.
2. The rainwater discharge shall be designed to keep the water runoff from the neighboring properties, and shall be directed toward Bay Avenue.
3. There shall be no more than two windows installed in the second level of the garage, those being standard-sized windows, one on the north side and one on the south side.

4. The garage structure shall not be converted to residential use, nor shall it be used as living space.

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

**ROLL CALL:**

**AYES: Mr. Mintzer, Mr. Francy, Ms. Ryan, Mr. Fox, Mr. Anthony, Mr. Mullen**

**NAYES: None**

**ABSTAIN: None**

**DATE: April 5, 2007**

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**Carolyn Cummins, Board Secretary**

I hereby certify this to be a true copy of the Resolution adopted by the Borough of Highlands Zoning Board on April 5, 2007.

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**BOARD SECRETARY**