

5/3/07

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

**RESOLUTION APPROVING BULK VARIANCES
FOR ALVATOR AT 10 NORTH PEAK STREET**

WHEREAS, the applicant, DONNA ALVATOR, is the owner of a single-family home at 10 North Peak Street, Highlands, New Jersey (Block 35, Lots 6 and 7); and

WHEREAS, the owner filed an application to add a second story addition; 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 April 5, 2007; and

WHEREAS, the Board heard the testimony of the applicant, DONNA ALVATOR; REGGIE SEERS; and ROBERT BURTON; and

WHEREAS, GERALD NICHOLSON appeared to ask questions and make comments regarding his concern about construction vehicles coming on his property; and JERRY FELICIANO, another neighbor, appeared to give the historical background of the area, but did not take any position with regard to 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: 1/13/06 Survey by Charles Widdis;
- A-4: Architectural plans by Anthony Ercolino (2 pages);
- A-5: Tax map with some neighbors' properties shown in green;
- A-6: Six 8 1/2" X 11" color photos, sub-lettered "A" through "F".

WHEREAS, the following exhibits were also marked into evidence:

- B-1: Tax map with subject property in red (provided by Board Engineer);
- O-1: 6/6/05 survey by William Fiore of Hubbard property, next door, provided by Mr. Nicholson.

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-1.01 Zone.
2. The site currently contains a one-story single-family home fronting on North Peak Street, which street is rather narrow.
3. The applicant seeks to add a full second story addition with the same footprint as the existing home, with a screened-in porch at the rear.

4. The applicant testified that her mother is elderly and may be coming to live with her, which is one of the primary reasons for the application.

5. The current home has two small bedrooms without closets, a small kitchen, a full bath, living room and master bedroom on the main floor, and a basement which contains a washer and dryer.

6. The applicant proposes to remove the existing master bedroom on the first floor, creating a larger living area, in a great room, and construct bedrooms on the second floor.

7. The current home has no closets in two of the very small bedrooms and a minimal closet in the master bedroom. The addition, therefore, will give more storage space and provide better living flow within the home.

8. The applicant has lived on the property for 23 years, and has no plans to move.

9. There is a proposed dining room in the rear, which will also be part of a great room.

10. The existing height of the home is 23.25 feet. It is proposed to be 26 feet in height. The rear, however, is higher because of the downward slope to the rear of the property. According to the Borough Engineer, the height of the structure after the

proposed addition will be 27 feet. There is, however, no height variance required.

11. The applicant proposes to resurface the entire structure and to remove the shed.

12. The requested porch at the rear will not be converted to habitable space, nor shall the basement.

13. There is a retaining wall at the rear of the property which belongs to the applicant, and has been there a long time. Her former husband installed it.

14. There is no existing easement for entry to the house from North Peak Street, which access is partially over the neighboring (HUBBARD) property.

15. When questioned by the Board, the applicant testified that she did not want to put the addition on the south side because it would block her view in the winter.

16. The neighbor, GERALD NICHOLSON, was not objecting to the application, but did want courtesies shown to him and the owner of his home when construction vehicles come to build the addition.

17. There has apparently been an ongoing dispute between the owners of the HUBBARD and ALVATOR properties, which is either currently in litigation or will be shortly, all of which concerns the property

lines and usage by the ALVATOR occupants and guests of part of the HUBBARD property.

18. The public road is too narrow to make a 90-degree turn into the subject property, which requires the continued use of the existing driveway.

19. the Board reviewed the requirements of and reasoning behind Borough Ordinance 21-98A(2), which restricts any addition to 80% of the original building footprint. In this case, however, the Board did not find the proposed addition to be overpowering, especially considering the lack of any nearby structures to the subject.

20. The Board did feel, however, that the rear setback variance requested is not necessary, considering the size of the lot. Also, the steep slope in the rear dictates against the granting of the requested rear yard variance.

21. The applicant testified that the existing shed will be removed.

22. The applicant has requested variances for the preexisting conditions of lot depth of 80 feet, where 100 feet is required; front setback of 24.09 feet, where 35 feet is required; and side yard setback of 3.77 feet/33.48 feet, where 8 feet/12 feet are

required, the latter of which will be a continuation of the existing setback.

23. The applicant also seeks new variances for rear setback of 9.34 feet (where the current setback is 15.34 feet), where 25 feet is required; and from Ordinance 21-98A(2), limiting any addition to 80% of the original building footprint.

24. The proposed second story addition 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). The Board felt that the proposed addition would be an enhancement and improvement to the property and to the neighborhood.

25. The Board does not feel, however, that the applicant has provided proofs which would warrant the granting of a rear setback variance for the proposed enclosed porch.

WHEREAS, the application was heard by the Board at its meeting on April 5, 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 DONNA ALVATOR to add a second story addition be and the same is

hereby approved, and that variances for lot depth, front setback, side setback and an increase over 80% of the original building footprint are hereby granted in accordance with the measurements set forth in the findings above. The requested rear yard setback variance, however, is denied;

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

1. The existing shed will be removed.
2. There will be no conversion of the basement to habitable area.
3. Vehicles which access the property for the purposes of construction shall not encroach on Lot 4.01 (HUBBARD property), other than to use the existing driveway entrance to the subject.

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

ROLL CALL:

AYES: Mr. Mintzer, Mr. Francy, Ms. Ryan, Mr. Anthony, Mr. Gallagher,
Mr. Mullen

NAYES: None

ABSTAIN: None

DATE: May 2, 2007

CAROLYN CUMMINS, BOARD SECRETARY

I hereby certify this to be a true copy of the Resolution adopted by the Zoning Board of Adjustment of the Borough of Highlands on May 2, 2007.

BOARD SECRETARY