

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

12/5/13

**RESOLUTION APPROVING BULK VARIANCES
FOR KORMAN**

WHEREAS, the applicant, DAVID KORMAN, is the owner of a residential property at 19 Locust Street in the Borough of Highlands (Block 101, Lot 28); and

WHEREAS, the applicant filed an application to demolish the existing one-story frame dwelling and construct a new single-family dwelling to comply with the new flood zone requirements;

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 November 7, 2013; and

WHEREAS, the Board heard the testimony of the applicant, DAVID KORMAN, and the Board Engineer, ROBERT KEADY; and

WHEREAS, no objectors appeared to either ask questions or voice any objection to the application; and

WHEREAS, the applicant submitted the following documents in evidence:

- A-1 Variance application (3 pages);
- A-2 Zoning denial form dated 8/13/13;
- A-3 Flood elevation certificate dated 8/2/13 by Richard Stockton (2 pages);
- A-4 Survey by Richard Stockton dated 8/2/13, showing existing conditions;
- A-5 Footprint of proposed building superimposed onto Stockton survey;
- A-6 Sketch of foundation;
- A-7 Sketch of exterior of house;
- A-8 3 pages of color photos;
- A-9 3 pages of black and white photos 8.5" x 11";
- A-10 Sketch of layout of home (later withdrawn by applicant);

AND, WHEREAS, the following exhibit was marked into evidence as a Board exhibit:

- B-1 Board Engineer review letter by ROBERT KEADY dated 10/31/13 (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-1.03 Zone, which permits single-family homes.

2. The site currently contains a single-family home, which was damaged during Superstorm Sandy. The

applicant testified, as an example, that the floors are buckling throughout the home.

3. The applicant proposes to demolish the existing structure and build a new home, larger than the prior home, but substantially further back on the lot from Locust Street.

4. The current house has a front yard setback of 9.6 feet, where 20 feet are proposed. This particular proposed dimension is a significant improvement, though still less than the 35-foot setback required by ordinance.

5. The applicant proposed to center the dwelling on the property.

7. There is currently no off-street parking. If the applicant's plans are approved, there will be sufficient parking for at least two vehicles, one inside (under the structure), and one in the driveway.

8. The driveway will be of an impervious surface (not dirt).

9. The current structure is substandard. The property has been in the applicant's family's ownership since the early 1970's.

10. The lot has only 25 feet of frontage, which, therefore restricts the size of the home that can be constructed on this lot.

11. The applicant seeks the following variance relief:

A. Lot area of 25,000 square feet where 14,000 square feet is required (pre-existing condition).

B. Lot frontage of 25 feet where 75 feet is required (pre-existing condition).

C. Lot depth of 100 feet where 200 feet is required (pre-existing condition).

D. Minimum front yard setback of 20 feet where 35 feet is required. This, however, is an improvement from the existing 9.6 feet of front yard setback.

E. Minimum side yard setback of 2 feet/3 feet where 8 feet/12 feet are required. This request would be an exacerbation of the violation of the existing ordinance, since the existing structure has side yard setbacks of 2 feet/8 feet.

F. Minimum rear yard setback of 20 feet where 25 feet is required. The existing home has an approximate 45-foot rear yard setback, thereby creating the need for a variance where no previous one was required.

G. Minimum setback for the porch of 3 feet where 8 feet is required, because it has a roof.

H. Building coverage of approximately 48% where 25% is required. The existing home had building coverage of 23.3% and met

the ordinance. This is both a new variance and a substantial violation of the current zone requirements.

12. The porch will be covered in the front.

13. The Board took testimony regarding the height of the structure and was satisfied that, because of the underground parking, there is not likely to be any need for a height variance. Since the applicant did not have exact dimensions available, the Board will be satisfied to limit the height of the structure to the borough ordinance. The specifics, however, shall be given to the Construction Official and Zoning Officer prior to the issuance of any zoning permit or construction permit.

14. The proposed structure will be a modular home. The dimensions were not made available to the Board, as a result of which the Board will require that signed and sealed drawings, confirming the measurements, be provided to the borough officials before the issuance of any construction permits.

15. The Board feels that the applicant is entitled to keep his existing home or put a replacement home on the property. The issues presented to the Board were the degree of deviation from the zoning ordinance which should be permitted.

16. This application was prompted by Superstorm Sandy.

17. The Board finds that the positive criteria required for bulk variance relief under N.J.S.A. 40:55D-70(c) has been met, both because of the extraordinary and exceptional situation of the storm damage as it affected the lawful pre-existing structure.

18. This relief can be granted without any substantial detriment to the public good or substantial impairment of the intent and purpose of the zone plan. The board finds no detriment as to either.

19. The Board determines that the requested relief, as modified by the Board's decision, will not cause any damage to the character of the neighborhood or constitute a substantial detriment to the public good.

WHEREAS, the application was heard by the Board at its meeting on November 7, 2013, 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 DAVID KORMAN to demolish his existing single-family home and

rebuild a home in accordance with his application is granted in part and modified in part. Variances are hereby granted for the preexisting conditions set forth above in paragraphs 11A, 11B and 11C; and variances are also granted for minimum front yard setback of 20 feet where 35 feet is required; rear yard setback of 20 feet where 25 feet is required; setback for the porch of 3 feet where 8 feet is required; and building coverage of approximately 48% where 25% is required;

AND BE IT FURTHER RESOLVED that the Board grants a variance for side yard setbacks of 3 feet/4 feet, for a total of 7 feet in side yard setbacks. This dimension is different from the request made by applicant or as shown on his drawings. Any final plans shall be in conformance with this dimensional approval by the Board; and

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

A. Any damage caused to curbing, sidewalk or pavement during construction shall be repaired or replaced to the satisfaction of the borough.

B. The height of the new home shall not exceed the height requirements of borough ordinance, which dimension shall be verified with both the Zoning Officer and the Construction Official prior to the issuance of any permits.

C. Signed and sealed drawings confirming all measurements shall be supplied to the Construction Official prior to the issuance of any permits.

D. Lot coverage must comply with the borough ordinance (at the hearing, the Board was unable to determine the same, as a result of which that determination shall be made by the Construction Department).

E. The driveway shall be an impervious surface (i.e., not dirt, as an example).

F. Since the applicant is not eligible for NJ DEP permit-by-rule approvals, further review is deferred to the NJ DEP.

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

ROLL CALL:

AYES: Mr. Kutosh, Mr. Knox, Mr. Gallagher, Mr. Mullen,
Mr. Braswell

NAYES: None

ABSTAIN: None

DATE: December 5, 2013

Carolyn Cummins, Board Secretary

I hereby certify this to be a true copy of the resolution adopted by the Zoning Board of Adjustment on December 5, 2013.

Board Secretary