

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

12/5/13

**RESOLUTION APPROVING USE AND BULK VARIANCES
FOR HENDRICKSON**

WHEREAS, the applicant, SUSAN HENDRICKSON, is the owner of a two-family residential property at 61 Bay Avenue in the Borough of Highlands (Block 41, Lot 4); and

WHEREAS, the applicant filed an application for use variance approval to restore two existing residences which were substantially damaged during Superstorm Sandy and for related bulk variance relief; 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 November 7, 2013; and

WHEREAS, the Board heard the testimony of the applicant, SUSAN HENDRICKSON. No other persons appeared to ask questions or object to the application; and

WHEREAS, the Borough Planner, Martin Truscott, also testified; and

WHEREAS, the applicant submitted the following documents in evidence:

- A-1 Variance application (3 pages);
- A-2 Zoning Officer denial dated 6/26/13;
- A-3 Letter from Dale Leubner dated 7/1/13 forwarding zoning denial form;
- A-4 Survey by James Goddard, of Jeffrey Brauer Associates, Inc., dated 2/23/04;
- A-4 Photograph of front cottage at 61 Bay Avenue, facing south.
- A-6 Photograph of rear cottage, which faces the 61 Bay Avenue unit and has access to South 2nd Street;
- A-7 Photo looking north toward Veteran Memorial Park;
- A-8 Photo of rear cottage;
- A-9 Photo of neighboring property to the right (east) of the subject;
- A-10 Photo of the apartments next door;

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

- B-1 Board Planner, Martin Truscott, review memo dated 10/31/13 (4 pages with aerial map);

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 B-2 Overlay Zone, in which single-family residences are not permitted.
2. The site currently contains two residences, both of which were substantially damaged during

Superstorm Sandy in October 2012. Both dwellings are on the same lot, an existing non-conforming condition.

3. The applicant's lot is on the south side of Bay Avenue, to the west of South Street. The property actually fronts on two streets (Bay Avenue and South 2nd Street), and is approximately 6,000 square feet in area.

4. The residential unit facing Bay Avenue has a substantial setback from the street and is a one-story frame dwelling. The residence to the rear, on South 2nd Street, is also a one-story frame dwelling.

5. No off-street parking currently exists on the property.

6. The property sustained approximately 6 feet of water damage in each cottage during Superstorm Sandy.

7. The applicant seeks to raise each structure, the front cottage to be raised approximately 8 feet, and the rear cottage to be raised approximately 7 feet.

8. There is no proposed change in the footprint of either structure, nor any change in the square footage of either residential unit.

9. The neighborhood uses are mixed, with a business across the street, apartments next door, a private home, and a two-family to the right (east).

10. The applicant's husband's family has owned the property since 1925, during all of which time the property contained both cottages.

11. There are two bedrooms in each residential unit.

12. There is substantial public parking immediately to the rear of the property.

13. The Board Planner testified that, in his opinion, special reasons as required by the Municipal Land Use Law have been met, considering the reason for the requested relief (i.e., raising the house above the flood plain), opining that the long-term land use was appropriate and that there was no detriment to the subject property or the neighboring properties.

14. The applicant seeks the following relief:

A. A use variance to permit the two residential dwellings to remain on the subject property.

B. A use variance to allow the non-conforming single-family uses and the two principal (single-family) structures on one lot.

C. A waiver from the parking requirement of 2.5 spaces per unit.

15. The raising of these residential structures will improve the subject property, make it safer, and also improve the neighborhood. The application will both preserve the neighborhood character.

16. This application was made as a result of damage caused by Superstorm Sandy, which devastated many properties within the borough. The applicant is, basically, seeking to raise her storm-damaged dwellings without reconstructing them or changing their footprints or their dimensions. As a result, the Board finds that the positive criteria required for bulk variance relief under N.J.S.A. 40:55D-70(c) has been met.

17. The Board concurs with the Board Planner's testimony as to the plaintiff meeting the special reasons requirements of the Municipal Land Use Law.

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 SUSAN HENDRICKSON to raise her two existing storm-damaged dwellings out of the flood plain, all as set forth on the

applicant's application and further described in her testimony is hereby approved. Accordingly, use variances are granted to allow two single-family dwelling units in the B-2 Zone and to permit those non-conforming uses to remain. A waiver is also granted from the parking requirement;

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

A. Any restoration must be in compliance with the borough flood hazard regulations.

B. Applicant shall provide the borough with an elevation certificate.

C. Any improvements shall be subject to compliance with FEMA, NJ DEP, and the Borough of Highlands Land Use Ordinance.

Seconded by Mr. Knox 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 Borough of Highlands Zoning Board of Adjustment on December 5, 2013.

Board Secretary