

Mr. Gallagher offered the following Resolution and moved on its adoption:  
12/5/13

**RESOLUTION APPROVING BULK VARIANCES  
FOR SOMMER**

WHEREAS, the applicant, **PETER JOHN SOMMER**, is the owner of a residential property at 29 Ocean Avenue in the Borough of Highlands (Block 99, Lot 26); and

WHEREAS, the applicant filed an application to raise the existing one-story frame dwelling and relocate it further to the rear of the property and 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, **PETER JOHN SOMMER**, 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 10/18/13;
- A-3 Survey by Thomas Finnegan dated 11/7/97;
- A-4 The same survey with the proposed building shown thereon;
- A-5 Foundation plan

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-2.03 Zone, which permits single-family homes.

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

3. The applicant proposes to elevate and relocate the existing structure by moving it deeper into the lot, thereby allowing for an access stairway and off-street parking.

4. There is currently no off-street parking. If the applicant's plans are approved, there will be

sufficient parking for at least four vehicles, one under the structure, and three in the driveway.

5. The current front yard setback is 10.3 feet. The applicant's plans propose to significantly enlarge the front yard setback to a total of 22 feet.

6. The home was damaged by Superstorm Sandy in October 2012.

7. The applicant proposes to raise the home 6 feet, and move it back, further into the lot, 12 feet.

8. There will be no change in the size of the footprint of the building. It will just move deeper into the lot.

9. The stairway will be inside the garage.

10. The home currently violates the front yard setback requirements. Once moved, there will be no violation of the front yard setback requirements.

11. The existing shed is proposed to stay.

12. The applicant seeks the following variance relief:

A. Lot area of 2,500 square feet where 5,000 square feet is required (pre-existing condition).

B. Lot frontage of 25 feet where 50 feet is required (pre-existing condition).

C. Minimum side yard setback of 3.47 feet/3.47 feet where 6 feet/8 feet are required (pre-existing condition).

D. Accessory structure setback of 1.3 feet, where 3 feet are required (pre-existing condition).

13. As a result of the Board Engineer's consideration of the documents submitted, it was determined that the applicant meets the requirements for lot coverage and building coverage.

14. All of the requested variance relief is for preexisting conditions, one of which (minimum front yard setback) is a significant improvement to the existing setback.

15. Moving the home deeper into the lot and more than doubling the front yard setback is a significant improvement to the property and to the neighborhood.

16. The Board finds that the requested variance relief seeks *de minimus* changes. In fact, none of the four dimensional requirements for which variance relief is sought are changing from their existing conditions.

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 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 PETER JOHN SOMMER to raise and relocate his existing dwelling in accordance with his plans and the terms set forth earlier in this resolution is hereby approved. Variance relief for the preexisting conditions of minimum lot area, minimum lot frontage, minimum side yard setback and accessory structure setback are all granted, as more fully set forth in paragraph 12A through D, inclusively.

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

**ROLL CALL:**

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

**NAYES:** None

**ABSTAIN:** None

**DATE:** December 5, 2013

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Carolyn Cummins, Borough Clerk

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.

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Board Secretary