

Mr. Gallagher offered the following Resolution and moved on its adoption:  
1/2/14

**RESOLUTION APPROVING BULK VARIANCES  
FOR OLIVEIRA**

WHEREAS, the applicants, PAUL and NICOLE OLIVEIRA are the owners of a residential property at 14 Sea Drift Avenue in the Borough of Highlands (Block 77, Lot 4); and

WHEREAS, the applicants filed an application to construct a new single-family dwelling on their vacant lot which previously contained a single-family structure; 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 December 5, 2013; and

WHEREAS, the Board heard the testimony of the applicant, PAUL OLIVEIRA, and his builder, CLAUDE OWEN; 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 October, 2013;

A-3 Architectural plans prepared by Gregory Waga of Waga Ent's. dated 7/3/13, last revised 8/19/13 (4 pages)

A-4 Flood elevation certificate dated 5/3/13 by Valerie Braginsky;

A-4 Survey by Richard Stockton dated 8/2/13, showing existing conditions;

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

B-1 Board Engineer review letter by ROBERT KEADY dated 11/4/13 (4 pages);

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-2.01 Zone, which permits single-family homes.

2. The site is currently vacant, since the prior home was substantially damaged during Superstorm Sandy, so the applicant had it demolished.

3. The applicant proposes to build a new home, somewhat larger than the prior home, but essentially maintaining the footprint of the former home, except for the depth of the new home, which is approximately 9 feet larger.

4. The applicant proposed to center the dwelling on the property as much as possible.

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

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

7. The applicant seeks the following variance relief:

A. Lot area of 1,750 square feet where 3,750 square feet is required (pre-existing condition).

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

C. Minimum front yard setback of 9.25 feet where 20 feet is required.

D. Minimum side yard setback of 3.08 feet/5.37 feet where 6 feet/8 feet are required.

E. Minimum rear yard setback of 12.75 feet where 20 feet is required.

F. Lot coverage of 82.6% where 75% is permitted.

G. Building coverage of approximately 48.8% where 33% is permitted.

8. The new home will be three levels, with parking on the ground level. Such parking is a significant improvement to the property and to the neighborhood.

9. The height of the new structure will not exceed the height permitted in the zoning ordinance.

10. The width of the new home will be the same footprint as the prior home. The depth will be larger.

11. The shed which was previously at the rear of the property has been removed and will not be reinstalled.

12. The front setback of this structure will be very similar to the other houses on its side of Seadrift Avenue.

13. The lot to the immediate rear (on Barberie Avenue) is vacant and has been for several years.

14. The prior home was a 2-bedroom structure. This will be a 3-bedroom structure.

15. The Board feels that the applicants are entitled to construct a replacement home on their 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 and because of the narrowness of the lot.

18. Constructing this home above the flood elevation and providing off-street parking are significant improvements to the property and to the neighborhood.

19. Once the home is elevated, the living space no longer has the same relationship to the rear yard, as a result of which the Board finds the rear yard setback on this property, especially in conjunction with neighboring properties, to be reasonable and similar.

20. The applicants' plans have been prepared in the spirit of the dictates of the Highlands Borough ordinances.

21. 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.

22. 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 December 5, 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 PAUL and NICOLE OLIVEIRA to construct a new home on their lot which housed their prior home before Superstorm Sandy, in accordance with their application and plans, is granted. Variances are hereby granted for the preexisting conditions set forth above in paragraphs 7A and 7B; and variances are also granted for the conditions set forth above in 7A through 7G, inclusively;

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

C. No replacement shed shall be constructed on the property.

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

**ROLL CALL:**

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

**NAYES:** None

**ABSTAIN:** None

**DATE:** January 2, 2014

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**Carolyn Cummins, Board Secretary**

I hereby certify this to be a true copy of a Resolution adopted by the Borough of Highlands Zoning Board at a meeting held on January 2, 2014.

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Board Secretary