

Mr. O'Neil offered the following Resolution and moved on its adoption:
4/3/14

**RESOLUTION DISMISSING USE VARIANCE APPLICATION
OF DAVIS**

WHEREAS, JAMES and PATRICIA DAVIS are the owners of property located at 139 Bay Avenue (Block 46, Lot 5 on the Highlands tax map); and

WHEREAS, the DAVISes filed an application with the Highlands Zoning Board of Adjustment seeking a use variance to restore a multi-family structure that was substantially damaged in Super Storm Sandy in October 2012; and

WHEREAS, testimony was taken in the matter at the Board's meeting on October 13, 2013, at the conclusion of which the applicants exercised their right to adjourn and have a fully-constituted board vote at the board's next meeting; and

WHEREAS, at the same time that this application was being heard, the governing body was considering, and ultimately adopted, Ordinance O-13-30, which amended Ordinance Section 21-98 to permit certain properties to continue their prior non-conforming uses without the need for variance approval; and

WHEREAS, the matter was continued to the board meeting dates of November 7, 2013, December 5, 2013, February 6 and March 6, 2014, at none of which meetings the applicants appeared; and

WHEREAS, the requested relief has already been undertaken by the applicants, who obtained the necessary permits and undertook the work required thereunder; and

WHEREAS, the borough zoning officer opined that, as the result of the adoption of the new ordinance, the applicants were not in violation of the ordinance and, therefore, did not require variance relief to do what they requested; and

WHEREAS, the board determined that the application was moot and no variance relief is required for the proposal made by the applicants, because of the adoption of Ordinance O-13-30;

WHEREAS, this resolution shall memorialize the motion made and adopted at the Zoning Board's meeting on March 6, 2014;

NOW, THEREFORE, BE IT RESOLVED by the Zoning Board of Adjustment of the Borough of Highlands that the application of JAMES and PATRICIA DAVIS be and the same is hereby dismissed without prejudice.

AND BE IT FURTHER RESOLVED that any unused escrow funds of the applicant, after satisfying any outstanding invoices by the Board's professionals and any publication costs, shall be refunded to the applicants.

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

ROLL CALL:

AYES: Mr. Kutosh, Mr. Knox, Mr. O'Neil

NAYES: None

ABSTAIN: None

DATE: April 3, 2014

Carolyn Cummins, Board Secretary

I hereby certify this to be a true copy of a Resolution adopted by the Zoning Board of the Borough of Highlands on April 3, 2014.

Zoning Board Secretary