

Mr. Mullen offered the following Resolution and moved on its adoption:
7/3/14

**RESOLUTION APPROVING BULK VARIANCES
FOR GAUTHIER**

WHEREAS, the applicant, FLORENCE GAUTHIER, is the owner of a single family residential property at 1 Private Road in the Borough of Highlands (Block 56, Lot 11); and

WHEREAS, the applicant filed an application for variance approval to construct a new single-family dwelling on the same footprint as her prior dwelling which was substantially damaged during Superstorm Sandy; 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 June 5, 2014; and

WHEREAS, the Board heard the testimony of the applicant's granddaughter, DIANA GROVER, her husband/builder, CHRISTOPHER GROVER. Her neighbor, ANTHONY CATALANO, asked questions and testified regarding the proximity of his house to the applicant's, with specific attention to the roof and gutters as they faced his property. No other persons appeared to ask questions or object to the application; and

WHEREAS, many of the variances sought here are for conditions that would be preexisting if the home were repaired, rather than rebuilt. Those preexisting conditions are lot area, lot frontage, lot depth, front yard (which is an improvement), rear yard (which is an improvement), lot coverage (which is an improvement), and building coverage (which is an improvement; all improvements referring to the proposed structure over the existing structure; and

WHEREAS, the applicant submitted the following documents in evidence:

- A-1 Variance application (3 pages);
- A-2 Zoning Officer denial and email dated 4/10/14;
- A-3 Plot plan by Richard Stockton dated 5/28/14;
- A-4 Architectural plans by Paul Damiano dated 4/10/14 (4 pages);
- A-5 Section of tax map

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

- B-1 Board Engineer, Robert Keady, review letter dated 5/29/14 (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-2.02 Zone, in which single-family residences are permitted.

2. The site contains a single family residence, which home is in total disrepair and not, according to the testimony, repairable. Even the foundation is in bad shape. As a result, the applicant seeks to construct a new dwelling.

3. As a result of reconstruction of the home, the home will meet code requirements.

4. As a result of reconstruction, the home will be a better fit on the lot and, as noted below, will decrease some of the setback encroachments which currently exist.

5. The home currently encroaches over the property line. The reconstruction will remove that encroachment.

6. The proposed home will be slightly smaller than the existing home.

7. Smaller residential lots, such as this one, dictate smaller setbacks.

8. Questions were raised by the Board as to how the home could be constructed and demolition undertaken, with dumpsters, with insufficient space.

These issues must be addressed and resolved with the neighbors before construction begins; and any damage caused to their properties must be cured by the applicant.

9. A neighbor, ANTHONY CATALANO, questioned the roof and gutter vis-à-vis his adjoining property line. The Board has addressed those concerns in the conditions at the end of this resolution.

10. Parking is a problem throughout this neighborhood. The subject is no different than the others. It would be unreasonable to require the subject property to provide off-street parking when other neighborhood homes do not.

11. The applicant seeks to raise the structure in order to comply with the new flood zone requirements.

12. The footprint of the structure will be basically the same, however the home will be raised to meet the new flood plain requirements, though no height variance is required.

13. The applicant seeks the following relief:

A. Lot area variance for 1,297 square feet, where 4,000 square feet are required; which is the same as the existing home.

B. Lot frontage of 25 feet where 50 feet are required; which is the same as the existing home.

C. Lot depth of 52 feet, where 75 feet are required; which is the same as the existing home.

D. Front yard setback of 3.8 feet, where 20 feet are required; which is an improvement over the existing .5 foot setback.

E. Rear yard setback of 1.2 feet, where 20 feet are required; which is a slight improvement over the negative .9 foot setback.

F. Side yard setbacks of .5/.5 feet where 6/8 feet are required.

G. Lot coverage of 90%, where 75% is permitted; a slight improvement over the existing 93% coverage.

H. Building coverage of 76% where 33% is permitted; an improvement over the existing 82% coverage.

I. Deck setbacks of zero feet in the front and .5 feet on the side, where 3 feet is required for each.

J. A parking variance, since there is currently no parking available on the site, nor does the applicant propose any on site parking.

14. The raising of this residential structure as part of the reconstruction will be in accordance with the new flood zone requirements and will improve the subject property, make it safer, and also improve the

neighborhood. The application will also preserve the neighborhood character.

15. The applicant is, basically, seeking to rebuild her dwelling to conform with current building codes. 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.

16. This application will not cause any substantial detriment to the public good, nor will it substantially impair the intent and purpose of the zone plan and zoning ordinance. Further, it will not have any negative impact on the surrounding properties.

WHEREAS, the application was heard by the Board at its meeting on June 5, 2014, 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 FLORENCE GAUTHIER to rebuild her single family home as set forth on the plans submitted is hereby approved. Accordingly, bulk variances are granted as set forth in paragraph 12 above for the requested variances for lot area, lot frontage, lot depth, front yard setback, rear yard setback, side yard setback, lot

coverage, building coverage, front and side yard setbacks for the deck, and parking.

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

A. Any damage during construction which is caused to the existing pavement, sidewalk and curb shall be repaired or replaced to the satisfaction of the borough.

B. Applicant shall verify with NJDEP (i.e., he may be eligible for a NJDEP permit by rule), and obtain any and all necessary permits.

C. Review of the building elevation is deferred to the Flood Plain Officer (the site is located in the AE zone with a base flood elevation of 12 feet).

D. All construction and demolition shall be done on-site, and any issues regarding construction as they may affect the neighboring properties shall be resolved before construction begins, without any inconvenience to the neighbors.

E. Should demolition or reconstruction result in any damage to any

neighboring property, the applicant shall be responsible for quickly curing and resolving the same.

F. All roof water shall be directed to Private Road, such piping to be underground.

G. Neither the gutters nor the roof may extend beyond the property line.

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

ROLL CALL:

AYES: Mr. Fox, Mr. Kutosh, Mr. Knox, Mr. Gallagher, Mr. Mullen, Ms. Pezzullo, Mr. Braswell

NAYS: None

ABSTAIN: None

DATE: July 3, 2014

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 July 3, 2014.

Board Secretary