

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

**RESOLUTION APPROVING BULK VARIANCES
FOR ROBERT DAVIS**

WHEREAS, the applicant, ROBERT DAVIS, is the owner of a single family residential property at 7 Seadrift Avenue in the Borough of Highlands (Block 72, Lot 37); and

WHEREAS, the applicant filed an application for variance approval to construct a new single-family dwelling on the same footprint as his 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, ROBERT DAVIS, his wife, CYNTHIA DAVIS, and a neighbor, COLLEEN FLYNN. Testimony was also received by CHRISTOPHER FRANCY, a sitting Councilman, however his testimony was not directed to the application, but rather to advise the board that when Ordinance O-13-5 was adopted, he served on the committee that proposed it as well as the Council that adopted

it, and at no time was there any intent by the governing body to eliminate the 2.5 foot additional height allowed if a structure provided for under-structure parking. No other person appeared to ask questions or object to the application; and

WHEREAS, the applicant submitted the following documents in evidence:

- A-1 Variance application (3 pages);
- A-2 Zoning Officer denial and email dated 2/10/14;
- A-3 Location survey by Richard Stockton dated 5/1/13;
- A-4 Plot Plan by Richard Stockton dated 4/15/14;
- A-5 Preliminary construction plans by John Hyrs1 (3 pages);
- A-6 photo of house

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

- B-1 Board Engineer, Robert Keady, review letter dated 4/25/14 (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-2.01 Zone, in which single-family residences are permitted.

2. The site previously contained a single family residence, which home was substantially damaged during Superstorm Sandy in October 2012.

3. The property owner originally intended to renovate the structure after Superstorm Sandy; but, after speaking to the Zoning Officer and starting demolition on the downstairs portion, it was determined that there were so many situations that violated current codes that the replacement of virtually everything dictated that it would be more prudent to demolish the home and rebuild at a height meeting the current flood plain requirements.

4. There was a rear deck at grade level, which was destroyed in Superstorm Sandy. It will be replaced, but now be on the elevated first level. There will be no cover/roof, and the deck will be approximately 12 feet by 20.8 feet.

5. Questions were raised by the neighbor and the Board regarding the construction of exterior walls when in such close proximity to the neighboring structure. The likelihood is that the fire regulations will require conformance on the side walls and no windows on the side facing Lot 36 to the south.

6. Several houses on this block, especially across the street, are being raised as a result of Superstorm Sandy.

7. When the zoning table was submitted by the applicant, it reflected a height of 34 feet. The Board Engineer has, however, computed the height to be 33 feet.

8. Off-street parking for at least two vehicles is provided, so no parking variance is required.

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

10. 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.

11. The applicant seeks the following relief:

A. Lot area variance for 1,750 square feet, where 3,750 square feet are required; which is the same as the previous home.

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

C. Lot depth of 70 feet, where 75 feet are required; which is the same as the previous home.

D. Front yard setback of 9.2 feet, where 20 feet are required; which is the same setback as the previous home.

E. Side yard setbacks of 1.7/2.5 feet, where 6/8 feet are required; which is the same setback as the previous home.

F. Rear yard setback of 18.7 feet, where 20 feet are required; which is the same setback as the previous home.

G. Building height of 33 feet, where 32.5 feet are permitted.

H. Building coverage of 49.8% where 33% is permitted; the prior home had coverage of 49.37%, or almost the same as the proposed new home.

I. First floor deck sideyard setbacks of 1.7/2.5 feet, where 3 feet are required.

J. New third floor deck setbacks of 18.7 feet in the rear, where 20 feet are required; and 2.5 feet on the side, where 6 feet are required.

K. Third floor balcony setback of 6.2 feet, where 20 feet are required.

12. The raising of this residential structure in accordance with the new flood zone requirements will improve the subject property, make it safer, and also improve the neighborhood. The application will also preserve the neighborhood character.

13. 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 rebuild his storm-damaged dwelling. 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.

14. 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 ROBERT DAVIS to rebuild his single family home as set forth on the plans submitted is hereby approved. Accordingly, bulk variances are granted as requested and set forth in paragraph 11, subparagraphs A through K, for lot area, lot frontage, lot depth, front yard setback, side yard setback, rear yard setback, building coverage, first floor deck setback on two sides, third floor deck setback on the rear and side, and the third floor balcony setback. In addition thereto, a height variance is granted in accordance with paragraph 11, subparagraph G.

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

A. There shall be no roof on the second level (first living floor) deck.

B. The Construction Official is advised to pay particular attention to the fire ratings, especially as to the southerly side of the home, facing Lot 36.

C. There shall be no windows on the southerly side of the home, facing Lot 36.

D. 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.

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

F. Review of the building elevation is deferred to the Flood Plain Officer (the site is located in the AE zone).

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

ROLL CALL:

AYES: Mr. Fox, Mr. Kutosh, Mr. Knox,
Mr. Gallagher, 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 on July 3, 2014.

Board Secretary