

Mr. Mullen offered the following Resolution and moved on its adoption:
11/6/14

**RESOLUTION APPROVING USE AND BULK VARIANCES
FOR SHANAGAN**

WHEREAS, the applicant, FRANCIS SHANAGAN, and his family are the owners of a bungalow dwelling at 15 Cedar Street in the Borough of Highlands (Block 69, Lot 15.20); and

WHEREAS, the applicant filed an application for a use variance and related bulk variance relief, seeking to rebuild the bungalow dwelling within the existing footprint and comply with flood elevations; 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 October 2, 2014; and

WHEREAS, the Board heard the testimony of the applicant, FRANCIS SHANAGAN; his planner, ANDREW THOMAS; and a neighbor, BRYAN ADAMS, who supported the application; and

WHEREAS, another neighbor, BARBARA IANUCCI, appeared to ask a question, but neither supported nor opposed the application; and

WHEREAS, the applicant submitted the following documents in evidence:

- A-1 Variance application (3 pages);
- A-2 Zoning Officer denial dated 6/20/14;
- A-3 8/12/14 survey by Richard Stockton;
- A-4 8/18/14 approval letter from Honeysuckle Lodge Association;
- A-5 Structural details by Joseph Shanagan (5 pages);
- A-6 Elevation certificate dated 9/15/14 by Richard Stockton (3 pages, including a picture);
- A-7 Foundation plan by Dan Skurat (6 pages);
- A-8 Two building subcode sheets;
- A-9 Aerial photo prepared by Andrew Thomas;
- A-10 5 Photos lettered A through E;

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

- B-1 Board Engineer and Planner review letter by ROBERT KEADY and MARTIN TRUSCOTT dated 9/24/14 (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 and his family are the owners of property located in the WC-2 Zone, which does not permit residential uses.

2. The site currently contains a one-level bungalow dwelling which was partially damaged during Super Storm Sandy.

3. This dwelling has been owned by the applicant and his family for four generations, having been built in 1938.

4. The new dwelling will have essentially the same footprint as the old dwelling.

5. It would be an undue hardship to deny the applicant the use of his property for a dwelling which his family has used for over 75 years.

6. The applicant seeks the following variance relief:

A. Use variance for a single-level bungalow dwelling where residential uses are not permitted in the WC-Z Zone.

B. Rear yard setback of 2.2 feet where 3 feet is required (the proposal is the same as the existing dimension).

C. Side yard setbacks of 1.7/1.7 feet where 3 feet are required (the proposal is the same as the existing dimension).

D. Building coverage of 67.85% where 35% is permitted (the proposal is the same as the existing condition).

7. The rebuilding of this home with a new home will improve the subject property, as well as the neighborhood, which finding is supported by the

residential neighbor who appeared. The application, therefore, will both preserve the neighborhood character, but also clean up the property and improve both the subject property and the neighborhood.

8. The replacement dwelling will be approximately 600 square feet.

9. The applicant's family owns six units in Honeysuckle Lodge, which have strictly been used as summer units. This particular dwelling has no heat and is only used as a summer residence for July through Labor Day, then the applicants winterize the dwelling and return the following spring.

10. Though the original structure is livable, it needs upgrading.

11. The outer walls will remain the same as the prior structure. The applicant originally planned to simply rehabilitate the home; however, the contractor who was hired to do the work got carried away with the repairs, as a result of which the work was stopped by the borough.

12. Among other things, this property was partially damaged by Superstorm Sandy. Once the roof work began, it was determined that everything was warped.

13. The proposed change will make this property compatible with all other units. The total 28 units in the bungalow colony are basically the same in size and height.

14. This property has never been rented but, rather, just used for family purposes.

15. There will be no additional living level added to the home.

16. The applicant's planner testified as follows, which testimony the board adopts as credible:

A. It would not be possible to place a commercial structure, as permitted by ordinance, on this lot. The lot is only 750 square feet.

B. The units within Honeysuckle Lodge were built for summer recreational uses.

C. There is no vehicular access to the subject lot.

D. There is no parking on the subject lot but, rather, across the street on Cedar Avenue, and a few north, toward the bay.

E. The proposal will have no substantial negative impact on the community, especially considering that the

dwelling was there for over 75 years. The height and size also pose no negative impact. The applicant is simply asking to construct what was always there.

F. The borough ordinance recognizes the continuation of non-conforming structures.

G. The goals and objectives in the borough Master Plan, particularly page 4, include the preserving and protecting of the residential character of neighborhoods and the continuation of the intensity of uses, which goals are met here.

H. It would be a hardship to any owner to build a conforming use in this zone, on this property. In addition, the construction of a permitted use on this lot would not be in character with the balance of the neighborhood/bungalow colony.

I. There are special reasons for the granting of this variance, which include the preservation of a desirable visual environment (i.e., it fits in with the neighborhood, and is the same size and same

height); appropriate densities are being established and preserved, and there will be no increase in density (the Master Plan speaks against increases in density); and the public health and general welfare will be preserved by the upgrading of the structure to a safe condition.

J. The construction of retail sales uses, restaurants, and the like, which are permitted in this zone, are not uses which are potentially developable on this lot or in the bungalow colony.

K. The Municipal Land Use Law and the borough ordinance recognize the grandfathering of preexisting structures being repaired.

L. Because of the long history of the bungalow colony, and this lot in particular, the rebuilding of this particular unit is particularly suited to this property, in conformance with Medici.

17. In accordance with the findings above, the Board finds that the positive criteria required for

bulk variance relief under N.J.S.A. 40:55D-70(c) has been met.

WHEREAS, the application was heard by the Board at its meeting on October 2, 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 FRANCIS SHANAGAN to rebuild the bungalow dwelling in accordance with the plans and documents submitted be and the same is hereby approved. Variances are hereby granted for the use (bungalow dwelling in the WC-2 Zone) and enumerated bulk variances set forth in paragraphs 6B, C and D above.

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. The applicant must apply for flood plain review and receive a favorable determination.

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

ROLL CALL:

AYE: Mr. Fox, Mr. Kutosh, Mr. Mullen, Mr. Braswell

NAY: None

ABSENT: None

ABSTAIN: None

DATE: November 6, 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 of Adjustment at a meeting held on November 6, 2014.

Board Secretary