

Mr. Mullen offered the following Resolution and moved on its adoption:
1/15/15

**RESOLUTION APPROVING A DESIGN WAIVER AND BULK VARIANCES
FOR RIVERA**

WHEREAS, the applicant, PASCHAL RIVERA, is the owner of a single family residential property at 31 Waterwitch Avenue in the Borough of Highlands (Block 90, Lot 10); and

WHEREAS, the applicant filed an application for bulk variance relief to extend the roof over the rear deck area and a design waiver for a second driveway; 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 4, 2014; and

WHEREAS, the Board heard the testimony of the applicant's daughter, PATRICIA RIVERA, who possesses a power of attorney from her father. No persons appeared to object to the application; and

WHEREAS, the applicant submitted the following documents in evidence:

A-1 Variance application (3 pages);

A-2 Emails to and from Dale Leubner, Zoning Officer,

dated 11/5/14 with 3 pages of attachments;

- A-3 Architectural plans by James T. Daley last revised 11/19/14 (3 pages); the block and lot have been corrected to show the property as block 90, lot 10;
- A-4 General durable power of attorney from Paschal Rivera to Patricia Rivera dated 11/19/14 (6 pages);
- A-5 Deck location sketch by Zenon Grybowski, P.L.S., dated 11/18/14;
- A-6 8 ½ X 11 picture of the 7 foot roof at the rear of the house (pre-elevation);
- A-7 Sub-lettered A through E: Five 8½ X 11 photographs depicting flooding, garage and side

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

- B-1 Board Engineer, Robert Keady, review letter dated 11/26/14 (5 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.
2. The site contains a single family residence which has been raised to comply with the new flood elevations.
3. The applicant seeks to extend the rear roof an additional 3 feet (it is now 7 feet deep) over the rear deck area.

4. By extending the roof over the deck it will allow the homeowner to avoid the elements while accessing his home.

5. The applicant also seeks to add an additional driveway, where only one is permitted in this residential zone. She requests a design waiver for the same.

6. No change to the footprint of the structure is proposed.

7. The shed has been removed and will not be replaced.

8. The sidewalk, including across the driveway, of this project will be ADA compliant. The driveway will be concrete from the street to underneath the home.

9. The applicant seeks variance relief for all of the following pre-existing conditions:

A. Lot area of 3,000 square feet, where 3,750 square feet are required;

B. Lot frontage of 37.5 feet, where 50 feet are required; which is the same as the previous home.

C. Front yard setback of 5 feet, where 20 feet are required;

D. Side yard setback of 2.9/8.6 feet, where 6/8 feet are required.

10. The applicant also seeks approval for the following bulk variances:

A. Building coverage of 46.1%, where 33% is permitted. Note that the prior coverage was 45%, so this will be a de minimus change;

B. Rear yard setback for deck with roof of 18.7 feet where 20 feet are required;

C. Side yard setback for deck with roof of 4.2/9.8 feet where 6/8 feet are required.

11. This home was damaged during Superstorm Sandy and has already been elevated.

12. The applicant seeks to extend the roof from its current 7 feet in depth to a total of 10 feet in depth. The old roof was demolished when the home was elevated.

13. The new roof over the rear deck will be lower in height than the existing rear roof line.

14. The lower deck, which is 15 feet by 14 feet, will remain un-roofed. That deck has no impact on this application, and meets the required setbacks.

15. 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 December 4, 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 PASCHAL RIVERA to add a second driveway and extend the roof at the rear to a total of 10 feet in depth, as reflected in his plans and the testimony, is hereby approved. Additionally, bulk variances are granted as requested and set forth in paragraph 9, subparagraphs A through D for all of the pre-existing conditions set forth therein (i.e., lot area, lot frontage, front yard setback, and side yard setback). Variance relief is also granted for the conditions set forth in paragraph 10, subparagraphs A through C (i.e., building coverage and rear and side yard setbacks for the rear deck roof).

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

- A. The sidewalk portion of the project shall be ADA compliant.

B. Any damages to the existing pavement, sidewalk and curb shall be repaired or replaced to the satisfaction of the borough.

C. The former shed shall not be replaced.

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

ROLL CALL:

AYES: Mr. Kutosh, Mr. Knox, Mr. Mullen

NAY: None

ABSTAIN: None

DATE: January 15, 2015

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 January 15, 2015.

Board Secretary