

8/6/15

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

**RESOLUTION APPROVING USE AND BULK VARIANCES  
FOR FITZPATRICK AT 30 GRAVELLY POINT ROAD**

WHEREAS, the applicants, ANDREW & CHRISTINA FITZPATRICK, are the owners of a single-family home at 30 Gravelly Point Road, Highlands, New Jersey (Block 100, Lot 26.3); and

WHEREAS, the property owners filed an application to replace their existing flood-damaged home and construct a new single-family dwelling; 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 July 2, 2015; and

WHEREAS, the following persons testified before the Board: The applicant, CHRISTINA FITZPATRICK; and her engineer, EVAN HILL; and the board engineer, ROBERT KEADY, and board planner, MARTIN TRUSCOTT; and

WHEREAS, no other persons appeared to ask questions, object or support the application; and

WHEREAS, the applicant submitted the following documents in evidence:

A-1: Variance application (3 pages);

- A-2 Elevation certificate by KEITH M. LUDWIG dated 3/21/14;
- A-3 3/26/15 "Project Exempt" letter from Freehold Soil Conservation District;
- A-4 Zoning Officer denial email dated 4/24/15, with handwritten zoning permit application and denial attached (2 pages);
- A-5 Survey by KEITH M. LUDWIG dated 3/21/14;
- A-6 2 Pages of "Elevation Mitigation" plot plan by EVAN D. HILL dated 4/18/14;
- A-7 Building photographs (2 pages);
- A-8 6/15/15 Authorization letter from Gravelly Point Beach Association, Inc.

AND, WHEREAS, the following exhibit was also marked into evidence:

- B-1: Board Engineer and Planner review letter dated 5/28/15 (5 pages with aerial photo).

WHEREAS, the Board, after considering the evidence, has made the following factual findings and conclusions:

1. The applicants are the owner of a single-family home located in the R-2.03 Zone.
2. This home was substantially damaged during Super Storm Sandy. As a result of the damage, and considering the age of the structure, the applicants felt it would be more prudent to demolish the existing structure and rebuild.

3. The applicants seek a use variance for building height. The ordinance limits the building height to 20/22.5 feet, whereas the proposed structure has a proposed building height of 25.85 feet.

4. The applicants also seek a side yard setback for the front stairs of 2.8 feet, where 3 feet is required.

5. The proposed use as a single-family home is in conformance with the R-2.03 Zone requirements.

6. The prior dwelling encroached on the front yard setback requirements and the side yard setback requirements, the latter of which had no setback at all.

7. This home has been approved by the REM Program because of the substantial damage to the home as a result of Superstorm Sandy and the need for reconstruction.

8. This property has a narrow width and narrow depth. According to the applicant's engineer, there was only one prototype home that would work for this site, a approved by the REM Program. As a result, the applicant chose the only one available.

9. Because of the lack of parking on Gravelly Point Road, under-structure parking is proposed. In this case, there is space provided for two vehicles.

10. Though the applicant could build this home lower than 3 feet in excess of the variance, because the home is 4 feet over the base flood elevation it would not help the parking requirement if she did so.

11. Many homes in this neighborhood have undergone or are undergoing construction or reconstruction as a result of Superstorm Sandy.

12. This new construction will not be a prefab home.

13. The garage ceiling will be 8 feet to the clearance of the girder.

14. The lowest/ground level will be used for parking and storage, but is not set up for garage access.

15. Exhibit B-1 was modified during the hearing by the Board Engineer in two respects: (1) The existing side yard setback for the deck is 9.1 feet (as opposed to 9.5 feet), and there is no change under the new proposal; and (2) the rear setback for the shed is 5 feet (not 4.8 feet), where 3 feet are required, which is no change to the existing structure.

16. The Engineer described that the base flood elevation is 11 feet, so you start at 12 feet. Since it is 37.85 feet to the midline of the roof, the

height of the building is 25.85 feet, as reflected on page 3 of the Engineer's report.

17. The Board Planner testified that the property was and will be a residential use, which is permitted under the zoning ordinance. There is a need in the community for off-street parking, which is met by this application. A hardship is created because of the limited nature of the REM Program. For instance, the roof peak and outside footprint cannot be modified. The home was previously a 2-bedroom home and will continue to be a 2-bedroom home, so no additional bedrooms are being added. The other possible 2-bedroom homes approved by the REM Program would not fit on this lot.

18. The Board Planner further testified that there will not be a substantial detriment to the public good, that there is no negative impact, and that the height of the property will not obstruct any view of neighboring property owners. He further testified that this structure will not be out of character in the neighborhood.

19. The applicant testified that the neighboring home is 3 times the size of the applicant's proposed home and 10 feet taller than the applicant's proposed home.

20. The existing structure was demolished in March 2014. The existing parking was previously to the left of the structure, but will no longer be there.

21. The rebuilding of an old home, meeting new construction requirements, will be a significant improvement to the lot, as well as to the neighborhood and the borough as a whole. As a result, the applicant's plan will serve the purposes advanced by the Municipal Land Use Law, particularly (b) secure safety on the property from flood and other natural and manmade disasters; and (i) promoting a desirable visual environment. In addition, the positive and negative criteria have been met, as testified to by the board's planner, as reflected above.

WHEREAS, the application was heard by the Board at its meeting on July 2, 2015, 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 ANDREW and CHRISTINA FITZPATRICK to rebuild their existing flood-damaged single-family home and construct a new dwelling in accordance with the plans accepted in evidence be and the same is hereby approved, and a use variance is hereby granted for the height of 25.85 feet; as well as a bulk variance for the side

yard setback for the front stairs of 2.8 feet where 3 feet are required.

AND BE IT FURTHER RESOLVED that this approval is made subject to approvals by (1) the Flood Plain Administrator; (2) the Construction Official; (3) the New Jersey Department of Environmental Protection; and (4) any other agencies or departments having jurisdiction.

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

**ROLL CALL:**

**AYE:** Mr. Kutosh, Mr. Knox, Mr. Mullen, Ms. Ziemba, Ms. Pezzullo

**NAY:** None

**ABSTAIN:** None

**DATE:** August 5, 2015

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Carolyn Cummins, Borough Clerk

I hereby certify this to be a true copy of a Resolution adopted by the Borough of Highlands Zoning Board of Adjustment on August 5, 2015.

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Board Secretary