

Borough of Highlands
March 10, 2022 Regular LUB Meeting Minutes

At Robert D. Wilson Memorial Community Center, 22 Snug Harbor Ave, Highlands NJ

Chair Rob Knox called the meeting to order at 7:42pm.
Chair Knox asked all to stand for the Pledge of Allegiance.

Chair Knox read the following statement: As per requirement, notice is hereby given that this is an Abbreviated Meeting of the Borough of Highlands Land Use Board and all requirements have been met. Notice has been transmitted to the Asbury Park Press and the Two River Times. Notice has been posted on the public bulletin board. Formal Action will be taken.

Chair Knox noted that there will be a change in order of agenda to accommodate applicants.

ROLL CALL:

Present: Mayor Broullon, Chief Burton, Mr. Kutosh, Ms. LaRussa, Mr. Montecalvo, Councilmember Olszewski, Vice Chair Tierney, Chair Knox, Mr. Zill, Ms. Chang, Mr. Ziemba, Mr. Cramer

Absent: Mr. Lee

Also Present: Board Attorney Dustin Glass, Esq., Board Engineer Edward Herrman, Paul Grygiel, Planner, and Board Secretary Nancy Tran

RESOLUTIONS:

1. LUB Res 2022-08 Memorializing Extension of Bulk Variance Relief Approval - revote

LAND USE BOARD RESOLUTION 2022-08
MEMORIALIZATION EXTENSION OF BULK VARIANCE RELIEF

Approved: January 6, 2022
Memorialized: March 10, 2022

MATTER OF DONNA ALVATOR
APPLICATION NO. LUB-2019-01

WHEREAS, an application for a two-year extension of time for bulk variance relief has been made to the Highlands Land Use Board (hereinafter referred to as the “Board”) by Donna Alvator (hereinafter referred to as the “Applicant”) on lands known and designated as Block 35, Lots 6 and 7 as depicted on the Tax Map of the Borough of Highlands (hereinafter “Borough”), more commonly known as 10 North Peak Street, within the R-1.01 (Residential) Zone (hereinafter “Property”); and

WHEREAS, a public hearing was held before the Board on January 6, 2022 with regard to this application; and

WHEREAS, on or about December 16, 2021, the Board received a written request for an extension from the Applicant and at the January 6, 2022 hearing, heard statements from the Board Engineer and Board Attorney regarding the request, and with the public having had an opportunity to be heard; and

WHEREAS, a complete application has been filed, the fees as required by Borough Ordinance have been paid, and it otherwise appears that the jurisdiction and powers of the Board have been properly invoked and exercised.

NOW, THEREFORE, does the Highlands Land Use Board make the following findings of fact and conclusions of law with regard to this application:

1. The Applicant is seeking a two-year extension of time for the bulk variance relief granted by the Board on August 1, 2019 and memorialized in a resolution dated September 5, 2019.

2. The Applicant was granted bulk variance relief from the R-1.01 Zone's minimum lot depth, front-yard setback, rear-yard setback, and side-yard setback requirements, to (a) construct a lateral addition on the first floor, (b) construct a new sunroom, (c) enlarge the existing kitchen within the southwesterly side-yard, and (d) construct a second floor addition.

3. The Applicant did not testify at the hearing but submitted a letter to the Board, requesting the extension and stating that she has diligently tried to perform the construction but that the COVID-19 pandemic had caused unexpected and unavoidable delays, which has prohibited the Applicant from working on the Property.

4. The Board Attorney stated that, the variance relief expired one-year from the date of memorialization pursuant to Section 21-12A-0 of the Borough Code. He advised that a request for an extension of time for variance relief could be made at any time.

5. The Borough Engineer testified that the Applicant had been diligently trying to undertake the construction, as required.

6. There were no members of the public expressing an interest in this application.

7. The Board has received, reviewed, and considered the Applicant's December 16, 2021 written request for an extension, Land Use Board Resolution Approving Bulk Variances for Alvator dated September 5, 2019 and its associated exhibits, and the statements made at the hearing with regard to this application. All exhibits, resolutions, and statements have been incorporated herein in their entirety.

WHEREAS, the Highlands Land Use Board, having reviewed the proposed application and having considered the impact of the proposed application on the Borough and its residents to determine whether it is in furtherance of the Municipal Land Use Law; and having considered whether the proposal is conducive to the orderly development of the site and the general area in which it is located pursuant to the land use and zoning ordinances of the Borough of Highlands; and upon the imposition of specific conditions to be fulfilled, hereby concludes that good cause has been shown to approve the application of Donna Alvator for a two-year extension of time for bulk variance relief until September 5, 2022.

The Board acknowledges that the Applicant has diligently attempted to perform construction on the subject Property but that due to circumstances beyond her control, namely the COVID-19 pandemic, she has faced unavoidable and unexpected delays, and been unable to do so. The Board, therefore, finds that an extension of time to September 5, 2022, is appropriate in this circumstance.

NOW, THEREFORE, BE IT RESOLVED by the Highlands Land Use Board on this 10th day of March 2022, that the action of the Land Use Board taken on January 6, 2022, granting Application No. LUB-2019-01 of Donna Alvator for an extension of time for bulk variance relief be and the same is hereby memorialized as follows:

The application is granted subject to the following conditions:

1. The Applicant is granted an extension of time expiring September 2, 2022.
2. All terms and conditions of the Board’s previous approvals, except as satisfied or amended, shall remain in place.
3. The Applicant shall provide a certificate that taxes are paid to date of approval.
4. Payment of all fees, costs, escrows due and to become due. Any monies are to be paid within twenty (20) days of said request by the Board Secretary.
5. Subject to all other applicable rules, regulations, ordinances and statutes of the Borough of Highlands, County of Monmouth, State of New Jersey or any other jurisdiction.

BE IT FURTHER RESOLVED that the Board secretary is hereby authorized and directed to cause a notice of this decision to be published in the official newspaper at the Applicant's expense and to send a certified copy of this Resolution to the Applicant and to the Borough clerk, engineer, attorney and tax assessor, and shall make same available to all other interested parties.

ON MOTION OF: Mr. Kutosh

SECONDED BY: Ms. LaRussa

ROLL CALL:

YES: Mayor Broullon, Chief Burton, Mr. Kutosh, Ms. LaRussa, Vice Chair Tierney, Chair Knox

NO:

INELIGIBLE: Mr. Montecalvo, Councilmember Olszewski, Ms. Chang, Mr. Ziemba

ABSENT: Mr. Lee

DATED: March 10, 2022

I hereby certify this to be a true and accurate copy of the Resolution adopted by the Borough of Highlands Land Use Board, Monmouth County, New Jersey, at a public meeting held on March 10, 2022.

Nancy Tran, Secretary
Borough of Highlands Land Use Board

2. LUB Resolution 2022-09 Mattina, Block 12 Lots 4.01 & 4.02, 149 Portland Rd. (LUB2021-05)

**LAND USE BOARD RESOLUTION 2022-09
RESOLUTION OF MEMORIALIZATION MINOR SUBDIVISION APPROVAL WITH
ANCILLARY VARIANCE RELIEF**

Approved: February 10, 2022

Memorialized: March 10, 2022

**IN THE MATTER OF CHRISTOPHER MATTINA
APPLICATION NO. LUB2019-05**

WHEREAS, an application for minor subdivision approval with ancillary variance relief has been made to the Highlands Land Use Board (hereinafter referred to as the “Board”) by Christopher

Mattina (hereinafter referred to as the “Applicant”) on lands known and designated as Block 12, Lots 4.01 and 4.02, as depicted on the Tax Map of the Borough of Highlands (hereinafter “Borough”), and more commonly known as 49 Portland Road in the R-1.03 (Single Family Residential) Zone; and

WHEREAS, a complete application has been filed, the fees as required by Borough Ordinance have been paid, proof of service and publication of notice as required by law has been furnished and determined to be in proper order, and it otherwise appears that the jurisdiction and powers of the Board have been properly invoked and exercised; and

WHEREAS, live public hearing was held on February 10, 2022, at which time testimony and exhibits were presented on behalf of the Applicant and all interested parties were provided with an opportunity to be heard; and

NOW, THEREFORE, does the Highlands Land Use Board make the following findings of fact and conclusions of law with regard to this application:

1. The subject Property includes two (2) lots which contain a total of 37,908 sf. Lot 4.01 contains 13, 439 sf and is improved with a two-story single-family dwelling. Lot 4.02 contains 24,469 sf and is vacant. Both lots are located within the R 1.03 Single-Family Residential Zone with frontage along Portland Road. The subject Property previously received minor subdivision approval in 1995, however, the Zone requirements were subsequently amended.

2. The Applicant is now seeking a new minor subdivision approval along with ancillary bulk variance relief to modify the existing lot lines. Proposed Lot 4.01 will contain 10,058 sf with frontage along Portland Road Proposed Lot 4.02 will contain 27,850 sf and will not have frontage along an improved road. The Applicant is not proposing any construction on Proposed Lot 4.01. The Applicant proposes a new 2 ½ story single family dwelling on Proposed Lot 4.02.

3. Counsel for the Applicant, Thomas J. Hirsch, Esq. stated that the Applicant was seeking minor subdivision approval with ancillary bulk variance relief. He described existing Lot 4.02 as a flag lot and existing Lot 4.01 as a standard shaped lot. Mr. Hirsch further explained that a minor subdivision had previously been granted but that amendments to the zoning ordinance required a new approval.

4. The Applicant testified that he had purchased the lots in 2020 but that the title search had not clearly reflected the applicable steep slope ordinance requirements which he asserted necessitated the instant application.

5. The Applicant’s Engineer, Keith Cahill, P.E. testified that existing Lot 4.01 is improved with a single-family residence and existing Lot 4.02 is currently vacant. He explained that while the Applicant was seeking a minor subdivision approval, the characteristics of the application were really that of a lot line adjustment. Mr. Cahill stated that the proposed plan attempted to accommodate the steep slope ordinance. He identified the following required relief:

a) Proposed Lot 4.01:

- 1) Minimum lot area where 14,000 sf is required and 10,058 sf. Is proposed.
- 2) Minimum lot depth where 200 ft. is required and 56.6 ft. is proposed.
- 3) Minimum front yard setback where 35’ is required and 0.5 ft. is proposed.
- 4) Minimum rear yard setback where 25 ft. is required and 24.3 ft. is proposed.
- 5) Disturbance distance (top/toe) where 15 ft./10 ft. is required >25 ft./ 0 ft. are proposed.

b) Proposed Lot 4.02:

- 1) Minimum lot depth where 200 ft. is required and 186.29 ft. is proposed.

- 2) Minimum front yard setback where 35' is required and 21.33 ft. is proposed.
- 3) Disturbance distance (top/toe) where 15 ft./10 ft. is required >25 ft./ >10 ft. are proposed.
6. Mr. Cahill further testified that the following relief was also required to permit a lot not fronting on an improved public street:
 - a) **Section 21-77.A** of the Ordinance requires every principal building be built upon a lot with frontage on a public street, and that the principal building shall have pedestrian and vehicular access for driveway and parking purposes from that improved street. The Applicant is proposing to subdivide the property and create a land-locked Proposed Lot 4.02.
 - a) **Section 21-84.B** of the Ordinance indicates that where slopes exceed 35% there shall be no disturbance of the steep slope areas, whereas the Applicant is proposing a curb cut and driveway within steep slopes exceeding 35% on Proposed Lot 4.01.
7. Mr. Cahill then explained that design waiver relief was also required from Section 21-65.4 of the Borough Code to permit the existing non-curbed frontage to remain.
8. Mr. Cahill further asserted that the proposed lots shared characteristics with others in the area. In response to Board questions, he also testified that all required access easements would be provided as a condition of approval. He additionally stated that a fire hydrant would be located at the frontage of the subject Property in order to accommodate emergency vehicles. Mr. Cahill then explained that the common driveway would be governed by a maintenance agreement which would be approved by the Board's professionals.
9. The hearing was then opened to the public at which time Mr. Cahill confirmed that the lower level of the proposed new home would have an entry point with a garage and an observation deck. Mr. Cahill further confirmed that all stormwater management requirements would be satisfied. In response to further questions, he also testified that the vacant lot could not be developed in the absence of relief from ordinance requirements.

10. There were no other members of the public expressing an interest in this application. **WHEREAS**, the Highlands Land Use Board, having reviewed the proposed application and having considered the impact of the proposed application on the Borough and its residents to determine whether it is in furtherance of the Municipal Land Use Law; and having considered whether the proposal is conducive to the orderly development of the site and the general area in which it is located pursuant to the land use and zoning ordinances of the Borough of Highlands; and upon the imposition of specific conditions to be fulfilled, hereby determines that the Applicant's request for minor subdivision approval pursuant to N.J.S.A. 40:55D-47 along with ancillary variance relief pursuant to N.J.S.A. 40:55D-70c with design waiver relief pursuant to N.J.S.A. 40:55D-51 and a planning variance pursuant to N.J.S.A. 40:55D-35 and 36 should be granted in this instance.

The Board finds that the Applicant has proposed a minor subdivision which requires bulk variance relief. The Municipal Land Use Law, at N.J.S.A. 40:55D-70c provides Boards with the power to grant variances from strict bulk and other non-use related issues when the applicant satisfies certain specific proofs which are enunciated in the Statute. Specifically, the applicant may be entitled to relief if the specific parcel is limited by exceptional narrowness, shallowness or shape. An applicant may show that exceptional topographic conditions or physical features exist which uniquely affect a specific piece of property. Further, the applicant may also supply evidence that exceptional or extraordinary circumstances exist which uniquely affect a specific piece of property or any structure lawfully existing thereon and the strict application of any regulation contained in

the Zoning Ordinance would result in a peculiar and exceptional practical difficulty or exceptional and undue hardship upon the developer of that property. Additionally, under the c(2) criteria, the applicant has the option of showing that in a particular instance relating to a specific piece of property, the purpose of the act would be advanced by allowing a deviation from the Zoning Ordinance requirements and the benefits of any deviation will substantially outweigh any detriment. In those instances, a variance may be granted to allow departure from regulations adopted, pursuant to the Zoning Ordinance.

Those categories specifically enumerated above constitute the affirmative proofs necessary in order to obtain “bulk” or (c) variance relief. Finally, an applicant must also show that the proposed variance relief sought will not have a substantial detriment to the public good and, further, will not substantially impair the intent and purpose of the zone plan and Zoning Ordinance. It is only in those instances when the applicant has satisfied both these tests, that a Board, acting pursuant to the Statute and case law, can grant relief. The burden of proof is upon the applicant to establish these criteria.

The Board finds that the Applicant has satisfied the positive criteria. The Board first addresses the positive criteria pursuant to the hardship standard. The Board finds that the vacant lot cannot be developed in the absence of variance relief. The inability to develop the lot with a permitted use constitutes a hardship. The Board is further aware that denial of variance relief would result in an undevelopable lot which is a taking which would require the Borough to purchase the property pursuant to the requirements of both the New Jersey and United States Constitutions. The Board therefore finds that the Applicant has satisfied the positive criteria pursuant to N.J.S.A. 40:55D-70c(1).

The Board also finds that the positive criteria has been satisfied pursuant to the “flexible” statutory standard. The Board finds that the proposed subdivision promotes appropriate population densities identified in the Borough Code and also replaces a vacant lot with an attractive permitted single-family home which promotes a desirable visual environment. These attributes both promote the goals of planning identified at N.J.S.A. 40:55D-2 and benefit the entire community. The Applicant has therefore satisfied the positive criteria pursuant to N.J.S.A. 40:55D-70c(2).

The Board further finds that the Applicant has also satisfied the negative criteria. The grant of variance relief will not result in additional population density, increased traffic beyond what is contemplated by the Ordinance, increased noise or noxious odors. The Board therefore finds that the grant of variance relief will not result in substantial detriment to the public welfare or substantially impair the zone plan or zoning ordinance. The negative criteria has therefore been satisfied.

The Board concludes that the positive criteria substantially outweighs the negative criteria and that variance relief may be granted pursuant to N.J.S.A. 40:55D-70c(1) and (2).

The Board also addresses the need for a planning variance pursuant to N.J.S.A. 40:55D-35 and 36. The Board finds that the land locked lot will have access to a public street through an easement which will be governed by a maintenance agreement to be approved by the Board’s professionals. A fire hydrant will also be located at the site frontage in order to assist emergency vehicles. The Board therefore finds that adequate access for both homeowners as well as emergency vehicles exists and relief may therefore be granted.

The Board also finds that the existing design which does not include curbing is adequate and is also in conformance with the prevailing neighborhood scheme. The Board therefore determines that requiring strict compliance with the requirements of the Ordinance would create practicable

difficulty in developing the subject Property with a permitted use. Design waiver relief pursuant to N.J.S.A. 40:55D-51 is therefore appropriate.

With the exception of the above relief, the Applicant complies with all other zoning, subdivision and design criteria ordinance requirements. Minor subdivision approval pursuant to N.J.S.A. 40:55D-47 is therefore appropriate. The Board notes that Plot Plan approval is required for development of the new proposed home.

NOW, THEREFORE, BE IT RESOLVED by the Land Use Board of the Borough of Highlands on this 10th day of March 2022, that the action of the Land Use Board taken on February 10, 2022 granting Application No. LUB2019-05, for minor subdivision approval pursuant to N.J.S.A. 40:55D-47 along with ancillary bulk variance relief pursuant to N.J.S.A. 40:55D-70c(1) and c(2), design waiver relief pursuant to N.J.S.A. 40:55D-51 along with planning variance relief pursuant to N.J.S.A. 40:55D-35 and 36 as follows:

The application is granted subject to the following conditions:

6. All site improvement shall take place in the strict compliance with the testimony and with the plans and drawings which have been submitted to the Board with this application, or to be revised.
7. Except where specifically modified by the terms of this Resolution, the Applicant shall comply with all recommendations contained in the reports of the Board professionals.
8. The Subdivision Plat or Deed recorded memorializing this subdivision shall specifically refer to this Resolution and shall be subject to the review and approval of the Board Engineer and Board Attorney. The Applicant shall record the Subdivision Plat or Deed within 190 days of the memorializing Resolution being adopted. Failure to do so shall render this approval null and void.
9. The Applicant shall submit an access easement subject to the review and approval of the Board Engineer and Board Attorney.
10. The Applicant shall submit a Maintenance Agreement for the common driveway subject to the review and approval of the Board Engineer and Board Attorney.
11. A fire hydrant shall be located at the frontage of the subject Property subject to the review and approval of the Board Engineer and appropriate Borough Fire Official.
12. The Applicant shall obtain plot plan approval for the construction of the new single-family home. This includes compliance with all relevant stormwater management requirements.
13. The Applicant shall provide a certificate that taxes are paid to date of approval.
14. Payment of all fees, costs, escrows due and to become due. Any monies are to be paid within twenty (20) days of said request by the Board Secretary.
15. Subject to all other applicable rules, regulations, ordinances and statutes of the Borough of Highlands, County of Monmouth, State of New Jersey or any other jurisdiction.

BE IT FURTHER RESOLVED that the Board secretary is hereby authorized and directed to cause a notice of this decision to be published in the official newspaper at the Applicant' expense and to send a certified copy of this Resolution to the Applicant and to the Borough Clerk, Engineer, Attorney and Tax Assessor, and shall make same available to all other interested parties.

Robert Knox, Chairman
Borough of Highlands Land Use Board

ON MOTION OF: Chief Burton

SECONDED BY: Mayor Broullon

ROLL CALL:

YES: Mayor Broullon, Chief Burton, Mr. Kutosh, Ms. LaRussa, Councilmember Olszewski, Vice-Chair Tierney, Chair Knox

NO: None

RECUSED: Mr. Montecalvo

ABSENT: Mr. Lee

DATED: March 10, 2022

I hereby certify this to be a true and accurate copy of the Resolution adopted by the Highlands Land Use Board, Monmouth County, New Jersey at a public meeting held on March 10, 2022.

Nancy Tran, Secretary
Borough of Highlands Land Use Board

BOROUGH OF HIGHLANDS LAND USE BOARD

EXHIBITS

Case No. LUB2019-05/ CHRISTOPHER MATTINA

Minor Subdivision

February 10, 2022

- A-1 Aerial Exhibit prepared by Bohler Engineering NJ, LLC dated February 9, 2022.
- A-2 Photo Exhibit prepared by Bohler Engineering NJ, LLC dated February 9, 2022.
- A-3 Site Layout Plan – Sheet No. C-01 prepared by Bohler Engineering NJ, LLC.
- A-200 Floor Plan – Elevations prepared by Mode Monmouth Ocean Design Experts dated 10/19/21.
- A-201 Floor Plan – Elevations prepared by Mode Monmouth Ocean Design Experts dated 10/19/21.

HEARINGS ON OLD BUSINESS: None

HEARINGS ON NEW BUSINESS:

1. LUB2021-07: Farrell, Block 32 Lot 7 (32 Shrewsbury) – Variance

Vice-Chair Tierney recused herself and stepped off the dais.

Thomas Hirsch, attorney for the applicant, gave brief synopsis of the application and then introduced his first witness.

Dr. Kerry Farrell, the property owner, was sworn in and gave history of the property and history of her family's ownership of property. Mr. Glass noted that the witness cannot read testimony and Dr. Farrell complied. She also gave accounting for the delay of the project. Mr. Hirsch asked if permits were given for the house and the garage. Dr. Farrell answered. Mr. Hirsch asked about the existing structure that was put in prior to the stop order and whether it was in the original location of previous garage. Dr. Farrell answered.

Mr. Glass noted that T&M's 2018 notice and asked if garage was 100% destroyed. Mr. Hirsch answered. Chair Knox asked if it will be a garage apartment. Dr. Farrell answered no.

[Recording started here.] Mr. Hirsch introduced his next witness, Robert Adler, who was sworn in and his credentials as architect was accepted. Mr. Adler described the project. Chair Knox asked about the vents and Mr. Adler answered. Mr. Kutosh asked about the specifications for the vents. Mr. Adler answered and stated that he would work with the LUB for compliance. Chair Knox asked about the current existing walls. Mr. Herrman answered. Chief Burton asked if there was plans to knock down the existing walls. Mr. Adler answered. Chair Knox asked which 2 walls were up. Mr. Herrman answered that last page of his report showed them. Mayor Broullon asked for clarification about the property line and Dr. Farrell answered. Mayor Broullon noted that she remembered the previous garage. She asked if applicant had considered not to have the overhang. Dr. Farrell answered and Mr. Adler answered. Mr. Kutosh asked about the overhang on the other side. Mr. Adler answered.

Mr. Herrman noted some points for the Board to consider.

Mr. Glass asked Mr. Hirsch some points about the notice. Mr. Hirsch answered and Mr. Glass concurred.

Chair Knox opened hearing to Public and when there was none, he shared his experience after Superstorm Sandy.

ON MOTION OF: Chief Burton motioned to approve

SECONDED BY: Ms. LaRussa

ROLL CALL:

YES: Mayor Broullon, Chief Burton, Mr. Kutosh, Ms. LaRussa, Mr. Montecalvo, Councilmember Olszewski, Chair Knox

NO: None

ABSENT: Mr. Lee

RECUSE: Vice Chair Tierney

Vice Chair Tierney returned to the dais at 7:40pm.

2. LUB2021-06: Fahey, Block 14 Lot 6 (38 Grand Tour) – Subdivision

Councilmember Olszewski recused herself and left the dais.

Mr. Glass addressed the wrong time on the applicant's notice and that it was redeemed with all parties agreeing to the switching of the order of the hearing.

John Anderson, attorney for the applicant, introduced some exhibits and gave summary of the application. He then introduced his first witness, Thomas Fahey, property owner. After Mr. Fahey was sworn in, he gave the history of the property and his intention. Mr. Anderson noted again that application is not looking for any variance for possible new structure in the new proposed lot. Mr. Anderson asked Mr. Fahey about the number of bedrooms for the possible new construction and landscaping of the new proposed lot. Mr. Fahey answered. Mr. Anderson asked Mr. Fahey questions about Exhibit A3 and Mr. Fahey complied.

Mr. Herrman asked Mr. Anderson for specifics of the landscaping plans. Mr. Anderson answered and noted that the objector's representative was present in the audience. Chair Knox asked which lot the new construction would be on and Mr. Anderson answered. Mr. Glass asked if the variance and landscaping binding and Mr. Anderson answered.

Chair Knox stated that the pre-existing non-conforming variance was not under review but noted due to the application being in front of the Board. Mr. Herrman listed some points for the Board and applicant to consider.

Ronald Trinidad was sworn in and the Board accepted his credentials as surveyor. Mr. Trinidad then described the location of the property, the property, and Exhibit A1.

Andrew Stockton was sworn in and his credentials were accepted. Mr. Anderson asked Mr. Stockton questions about the parking, driveway, utilities, and Mr. Herrman's points of concern.

Mr. Stockton answered. Mr. Anderson asked about Exhibit A4, which was pass around the dais, and Mr. Stockton answered. Mr. Stockton then addressed the various criteria.

Chair Knox asked about the new frontage. Mr. Stockton answered and noted that it was not undersized.

Chair Knox then opened hearing up to the Public.

Richard Sciria, representing property owner, an objector, at 42 Grand Tour, Lot 7, an objector, stated the issues that his client was concerned about. He noted that they were able to work it out before the meeting and that they were in favor of the application. He also stated that he had no issue with the notice.

Kenneth Sedlak, 49 Grand Tour, questioned the receipt of the notice of neighboring property owners. Mr. Anderson introduced proof of notice as Exhibit A6. Mr. Glass noted that the applicant complied with MLUL requirements and that the Board has no control over the postal service.

Matt O'Brien, 47 Grand Tour, remarked that he did not get a notice and, upon examining the proof of notice, noted that the previous owner was listed. Mr. Anderson answered and Mr. Glass concurred with the answer.

ON MOTION OF: Chief Burton motioned to approve

SECONDED BY: Mayor Broullon

ROLL CALL:

YES: Mayor Broullon, Chief Burton, Mr. Kutosh, Ms. LaRussa, Mr. Montecalvo, Vice Chair Tierney, Chair Knox, Mr. Zill

NO: None

ABSENT: Mr. Lee

RECUSE: Councilmember Olszewski

Chair Knox stated that any applications needing variance will need to appear before the Board.

Board took a break at 8:26pm and resumed at 8:33pm.

Chair Knox turned the meeting over to Vice-Chair Tierney to recuse himself for the next item.

3. Consistency Review: R 22-082 Resolution Referring the 2/28/2022 Revised Proposed Redevelopment Plan to the Land Use Board for Reconsideration

Board Secretary Tran read the names of eligible voting members. Mr. Glass explained the Board's role in making the consistency review of the revised redevelopment plan.

Acting Chair Tierney asked Mr. Grygiel to address the new revisions in the February 28, 2022 revised redevelopment plan. Paul Grygiel was sworn in and answered.

Mr. Zill asked if there were some areas that still conformed and what the trade-off was. Mr. Grygiel answered.

Ms. Chang asked for clarification of height allowance. Mr. Grygiel answered.

Acting Chair Tierney asked about roof decks and mechanicals. Mr. Grygiel answered. She then asked about Overlay 3. Mr. Glass reminded the Board that plan only needed to be substantially conforming, not 100% conforming. Mr. Grygiel answered.

Councilmember Olszewski stated that she walked the area and described her impression of the areas. She also stated that more public parking will become available once the police department moves to the new municipal building. Mr. Glass reminded that Board is only discussing consistency. Mr. Grygiel expanded on proposed parking plan.

Mr. Zill noted that trade-offs and flexibility is needed.

Acting Chair Tierney expressed concern with parking. Mr. Grygiel answered.

Ms. Chang noted that she saw Councilmember Olszewski's point regarding Overlay 3 but needed more clarification for Overlay 2. Mr. Glass reminded to focus on consistency.

Acting Chair Tierney stated that the Board had found the plan inconsistent twice before and wanted to know where these points were addressed. Mr. Cramer that parking and height issues keep arising and that there were too many ambiguities. He asked if anyone could answer the number of parking spaces needed. Mr. Zill noted that it was a great question but not focus of consistency review.

Mr. Ziemba asked where the town wants to be in 10-15 years and the economic impact town wants. He thinks the plan is consistent with master plan.

Acting Chair Tierney thought that the master plan does not embrace the redevelopment plan's height and parking and that she doesn't fully understand Overlay 3. She thought many aspects of the plan is great and the Board has to ask questions.

Mr. Cramer noted that if there's not enough height, what would attract developers. Mr. Grygiel answered. Mr. Kutosh disagreed and said that flooding is the biggest reason developers aren't building. Mr. Grygiel noted that developers need to build active commercial space in order to get the height bonus. Acting Chair Tierney wanted to make sure that new buildings are not block buildings.

Ms. Chang noted that the question is "shall" vs. "should" and asked about site plans. Mr. Grygiel answered.

Mr. Zill echoed Mr. Ziemba and asked what we want and noted that we need flexibility in conforming with the master plan.

Councilmember Olszewski noted the current height allowance and the proposed.

Ms. Chang asked about utilities and infrastructure. Mr. Grygiel, Mr. Glass, Councilmember Olszewski, and Mr. Kutosh answered.

Acting Chair Tierney opened public comment.

Bob Fisherler, 20 Gravelly Point, asked for definition of substantial and if there are guidelines for Board. Mr. Glass answered.

Rob Burton, 22 Atlantic, as he started talking, a member of the public objected to him speaking. Acting Chair Tierney noted that Mr. Burton is a public member when he recused himself. Mr. Burton noted that social media and survey should not factor in decision making and that the master plan was a dream at one point. He noted the number of cars he saw parked along Bay Avenue recently. There needs to be give and take.

Michelle Merker, 255 Shore, disagreed with Mr. Burton's parking assessment and noted that there was a difference in parking situation during peak and off peak seasons. She thought that the parking buy back and bonus should be removed and that the redevelopment plan is inconsistent.

Tricia Rivera, Waterwitch Ave., thought that there were a lot of inconsistencies in the redevelopment plan and listed them. She thought that flooding problem needs to be considered.

Claudette D'A, 12 Seadrift, asked about if county needs input since Bay Avenue is a county road. She asked why the survey was disregarded and if other planners were considered. Mr. Glass answered.

Lorned Milbauer, Marina Bay Ct., asked for consideration of the town's character and how it would look like with the plan.

Barbara Domingos, 247 Bay Ave., noted that she lives in the middle of the redevelopment area and that she's worried about developers' intentions.

Steve Solop, 205 Bay Ave., expressed concern for the potential new number of vehicles. He agreed with Mr. Kutosh's point about flooding being the biggest factor. He spoke about the town's charm and that the master plan should be tweaked.

Michelle Perzullo, Highlands Ave., thought the survey should be taken into account and asked about current flood mitigation and the proposed. She noted that care should be given to residents and not developers.

Michelle Sciria, Portland Rd., loved the vision and is excited about the plan but noted that research is needed. She asked about the differing heights and parking. Mr. Grygiel answered.

Melanie Heyn, 83 Linden, shared that she spoke with many in town when she was running for council. She was concerned that both sides think that the other side is against the need of the town.

Michael B, Highland Ave., thought that ground floor businesses will exist 10-15 year from now. He thought that the plan needs to go back to the master plan and address flooding. The town doesn't need bigger buildings.

Gina Melnyk, Hillside Ct., thanked the Board and town for this undertaking. She thought that no one addressed what should happen, only what should not.

Bronwyn Link, Central Ave., noted that no one is saying no to the plan, just no to 5 stories. She noted that people are saying what they want. We want redevelopment but thinks that there could be another solution than building bigger and taller buildings. She shared that she raised her son here and her memories of his childhood.

Acting Chair Tierney closed public portion. Mr. Glass reminded the Board the focus of their vote.

ON MOTION OF: Mr. Zill motioned that the redevelopment plan was consistent with the master plan

SECONDED BY: Councilmember Olszewski

ROLL CALL:

YES: Ms. LaRussa, Councilmember Olszewski, Mr. Zill, Mr. Ziemba, Mr. Cramer

NO: Mr. Kutosh, Acting Chair Tierney, Ms. Chang

ABSENT: Mr. Lee

RECUSE: Mayor Broullon, Chief Burton, Mr. Montecalvo, Chair Knox

Acting Chair Tierney thanked the public. Recused members rejoined the dais. Chair Knox resumed his role.

ACTION ON OTHER BUSINESS: None

APPROVAL OF MINUTES OF FEBRUARY 10, 2022 MEETING

Offered by: Ms. LaRussa

Seconded by: Mr. Kutosh

YES: Mayor Broullon, Chief Burton, Mr. Kutosh, Ms. LaRussa, Mr. Montecalvo, Councilmember Olszewski, Acting Chair Tierney, Chair Knox

NO:

INELLIGIBLE:

ABSENT: Mr. Lee

COMMUNICATION AND VOUCHERS

Approval of Invoices from T&M Associates and Weiner Law Group

Chair Knox noted that the adjournment time was wrong and needed to say 10pm with new business ends at 9:15pm. He thanked the Board.

ADJOURNMENT

Offered by: Councilmember Olszewski

Seconded by: Ms. LaRussa

All in favor

None Opposed

Adjourned at 10pm.

I, Nancy Tran, certify that this is a true and correct record of the actions of the Borough of Highlands Land Use Board on March 10, 2022.



Nancy Tran, Land Use Board Assistant Secretary