

Borough of Highlands
June 9, 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 7:02pm. 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.

ROLL CALL:

Present: Mr. Kutosh, Ms. LaRussa, Mr. Montecalvo, Chair Knox, Mr. Zill, Ms. Chang, Mr. Ziemba, Mr. Cramer

Absent: Mayor Broullon, Chief Burton, Mr. Lee, Councilmember Olszewski, Vice Chair Tierney
Also Present: Board Attorney Steven Tombalakian, Esq., Board Engineer Edward Herrman, and Board Secretary Nancy Tran

OPEN FOR PUBLIC COMMENTS:

Lorne Milbauer, Marina Bay Ct., asked about the procedure for the meeting. Chair Knox answered.

ACTION ON OTHER BUSINESS: None

RESOLUTIONS:

Memorialization of LUB Resolution 2022-12: Consistency Determination of Ordinance 22-09
Board Secretary Tran read those who were eligible to vote.

MOTION: Mr. Kutosh motioned to approve

SECONDED BY: Mr. Montecalvo

ROLL CALL:

YES: Mr. Kutosh, Mr. Montecalvo, Mr. Cramer, Chair Knox

NO: None

INELIGIBLE: Ms. LaRussa, Mr. Zill, Ms. Chang, Mr. Ziemba

ABSENT: Mayor Broullon, Chief Burton, Mr. Lee, Councilmember Olszewski, Vice Chair Tierney

Memorialization of LUB Resolution 2022-12: Consistency Determination of Ordinance 22-11

Board Secretary Tran read those who were eligible to vote.

MOTION: Ms. LaRussa motioned to approve

SECONDED BY: Mr. Zill

ROLL CALL:

YES: Ms. LaRussa, Mr. Montecalvo, Mr. Zill, Mr. Cramer, Chair Knox

NO: None

INELIGIBLE: Mr. Kutosh, Ms. Chang, Mr. Ziemba

ABSENT: Mayor Broullon, Chief Burton, Mr. Lee, Councilmember Olszewski, Vice Chair Tierney

Memorialization of LUB Resolution 2022-14: Denial of Minor Site Plan Approval and Variance Relief was tabled.

HEARINGS ON OLD BUSINESS: None

HEARINGS ON NEW BUSINESS:

LUB2022-02: Shwom, Block 101 Lot 9 (342 Shore Dr.) – Variance

Rachel Shwom and her architect, Vin Minkler, were sworn in. Ms. Shwom gave the history of her ownership of the property and summarized the proposed addition project.

Chair Knox asked if Shore Drive was the front or back of the house. Ms. Shwom answered that it was the front but the existing structure is very set back on the property.

Mr. Herrman gave a summary of the undersized property with its pre-existing non-conformity and how it compares with other neighboring properties.

Ms. Shwom offered pictures as evidence. Mr. Tombalakian marked the pictures into exhibits and asked Ms. Shwom to describe the pictures.

Mr. Herrman noted that the house is on an angle on the lot.

Ms. LaRussa asked how far in front the addition is. Mr. Minkler answered approximately 25 feet.

Ms. Chang asked if the proposed lot coverage was consistent with the neighborhood. Mr. Minkler answered yes and noted that the house was a shotgun house. Mr. Tombalakian asked Mr. Minkler to define “shotgun house.”

Chair Knox asked if Ms. Shwom bought the property raised. Ms. Shwom replied no.

Ms. Chang asked about the lot coverage and Chair Knox asked if it was consistent with the Master Plan. Mr. Minkler answered that the house is on a smaller lot so the lot coverage could not conform to the zoning requirements.

Mr. Zill asked if it was inconsistent with the neighborhood. Ms. LaRussa asked if the back of the house was staying unchanged. Ms. Shwom answered yes and that the property is currently inconsistent with the neighboring properties because it is so set back. Ms. LaRussa asked about water run-off. Chair Knox replied that it would be part of the construction permit.

Mr. Tombalakian noted that the house presently demonstrates no detriment to neighbors or to the Master Plan. Mr. Herrman asked if the applicant would comply with the elements of his review letter and asked about off-street parking spaces. Ms. Shwom answered that there were no parking spaces but that there currently is 1 spot in the back of the house. She also noted the total number of bedrooms when the project is done. Mr. Herrman noted that the standard requires 3 off-street parking.

MOTION: Ms. LaRussa motioned to approve

SECONDED BY: Mr. Zill

ROLL CALL:

YES: Mr. Kutosh, Ms. LaRussa, Mr. Montecalvo, Mr. Zill, Ms. Chang, Mr. Ziemba, Mr. Cramer, Chair Knox

NO: None

ABSTAIN: None

ABSENT: Mayor Broullon, Chief Burton, Mr. Lee, Councilmember Olszewski, Vice Chair Tierney

Chair Knox noted his appreciation of improvements that it encourages families to stay in Highlands.

LUB2022-03: B-Four Enterprises Block 69 Lots 13 & 13.01, Block 72 Lots 8, 8.01, 9.001, 9.011, & 9.012 (1 Atlantic Street) – Amended Site Plan

Amanda Curley, attorney for the applicant, gave a description of the application, seeking a site plan amendment for parking a paddleboat. She introduced the applicant, David Baker, and her architect, Michael Monroe, who Mr. Tombalakian swore in. Mr. Monroe gave his background and credentials, which the Board accepted.

Ms. Curley noted that she did not receive the Board Engineer's report. It was supplied to her and the Board granted her a brief recess to review.

Board recessed at 7:39pm and resumed 7:45pm. Ms. Chang recused herself and stepped down from the dais.

Mr. Monroe distributed a colorized site plan, which Mr. Tombalakian entered as Exhibit A1 and described. Mr. Monroe gave a description of the existing plan and proposed plan, which is

looking for flexibility for weather consideration. Applicant is not changing drainage, intensity of use, or the nature of use. He also gave description of the paddleboat.

Chair Knox asked if the paddleboat will be moored permanently and if food will be cooked on board. Mr. Monroe answered that boat will be docked and used for shelter and that the only food option is from the food truck on location. Ms. Curley noted that they plan to expand the liquor license once the site plan amendment is approved.

Mr. Ziemba asked if the boat is decommissioned. Mr. Baker answered that it is seaworthy and can be moved in case of emergency.

Mr. Herrman asked how many bathrooms are available on board and the disposal of waste. Mr. Baker answered that there are 2 bathrooms which will be pumped out. Mr. Herrman noted that applicant is not increasing capacity overall. Chair Knox asked if extra parking space is required. Mr. Herrman and Mr. Monroe answered no. Mr. Herrman asked for clarification of parking spaces and usage of spaces in off season. Mr. Monroe answered that nothing will change. Chair Knox asked about history. Ms. LaRussa asked if the lot will be changed around. Mr. Monroe answered that they will not be adding but just spreading and moving seats around.

Mr. Herrman explained why the applicant is amending site plan. He asked how the parking lot will be used, operationally, and about prior issues. Mr. Baker answered. Mr. Herrman asked if any approvals from outside agencies were necessary. He asked whether applicant has been compliant with conditions from prior approval and about noise, site security, and boat access. Mr. Baker answered that they have complied with conditions of previous approval and the music ends at 10pm. The boat will be secured with lock and there will be security camera. Mr. Monroe answered that they will do everything they can to be ADA compliant and as ADA accessible as possible. Mr. Herrman asked about operation change, if any, and lighting. Mr. Baker answered that there will be additional lighting for safety but nothing more to keep ambiance.

Chair Knox opened the floor for public questions.

Jerry Scarano, 1 Seadrift, asked if there would be additional music. Mr. Baker answered that there would never be bands playing both on the paddleboat and at the Seafarer at the same time.

Tim White, Honeysuckle Lodge, asked about the capacity of the paddleboat and, if there will be air conditioning, how it will be powered. Mr. Baker answered that paddleboat capacity is 110 and that the air conditioning unit will be plugged into the dock, not generator operated.

Francis Reynolds, 104 Marina Bay Ct., asked about fire safety, accommodations for the additional 110, and parking situation with all the businesses there. Mr. Baker answered that the fire suppressant will be utilized.

Mr. Cramer asked what the capacity was currently for the Seafarer. Mr. Baker answered that it was 200 per the fire marshal. Mr. Herrman clarified that capacity is defined by the fire marshal. Mr. Herrman asked what the projected capacity would be when the weather is nice and there is an event, when it's not raining. Mr. Monroe answered that Seafarer will self-impose capacity to 160 to maintain control.

Mr. Tombalakian noted that people are mixing capacity and parking. Ms. Curley asked Mr. Monroe about parking statute. He answered that it is 1 parking spot per 4 seats and gave an accounting of parking for the different businesses.

Addy Bonet, 108 Marina Bay Ct., asked how the capacity wouldn't change with the addition of the paddleboat. Mr. Baker answered that they are limiting the capacity of the paddleboat to 50. Mr. Monroe answered that they are no planning to have events happening at both the paddleboat and the Seafarer. Ms. Bonet asked why wouldn't they and that it would increase the traffic in the area. Mr. Knox reminded that the applicant was not asking for any increase in capacity or parking. They already meet those criteria. The applicant is looking to move seating from one area to a new area. Mr. Knox noted that the applicant is legally bound to the same number of people. Ms. Bonet asked about the hours of operations and if it would change. Mr. Baker answered that hours of operation is 12pm to 11pm. Chair Knox steered focus away from code and police issues and back to Land Use. Ms. Curley repeated that Mr. Baker plans to limit 50 people maximum to the paddleboat.

Lorne Milbauer, Marina Bay Ct., asked how applicant plans to deal with more people coming out on nice days. Ms. Curley answered that the ordinance is based on number of seats and not number of people.

Laurie (?), Marina Bay Ct., asked for clarification for accounting number of bodies and number of seats and tables. Mr. Tombalakian answered that the applicant is asking to have tables and seats on the paddleboat so they are removing seats and tables elsewhere to accommodate. He explained the limitations of topics that the Land Use Board can address.

Mr. Cramer asked if this is where the former Clam Hut, a structured restaurant facility, was. He noted that having a facility there is nothing new to the location and that the applicant is putting

a paddleboat there instead of a permanent structure. Mr. Monroe noted that the applicant could build a more permanent structure there that is within the zoning limit.

Barbara Domings, Bay Ave., asked for clarification that the amendment is not changing the terms from 2015. She asked how the applicant will comply when they've already changed with regard to having one stationary food truck on site. Ms. Curley made a point of clarification of variance.

Kevin ??, Honeysuckle Lodge, asked of the boat's ability to move in case of emergency. Mr. Baker answered that the boat will be secured and can be moved if necessary. Mr. Zill asked if boat is seaworthy and how it will be maintained.

Ms. Bonet asked if their goal is to get a liquor license expansion. Mr. Baker answered yes. Ms. Curley added that it is not a relevant question. Chair Knox confirmed. Ms. Bonet stated that the Board should consider the impact.

??, Honeysuckle Lodge, asked when applicant has permit to dredge. Ms. Curley and Chair Knox responded that the question is not relevant to the Board.

Megan Rice, Honeysuckle Lodge, asked if there's consideration to move the boat to a different location. Mr. Monroe answered that they considered other locations but concluded that this was the best spot to secure the boat with minimal obstruction of views.

With no further questions from the public or board, Chair Knox opened meeting for public comments.

Mr. White is supportive of business but thinks that the location is not a good situation with it being right on top of their development and with children swimming in the area.

Tom Quinn, Honeysuckle Lodge, thinks the stationary paddleboat will be quite an eye sore.

Mr. Reynolds applauds Mr. Baker for what he's done but thinks that it's disingenuous to assume that there won't be more people and that it's disingenuous of the Board not to hear the public stating that there is not enough parking there. The older Seafarer was great but the current Seafarer is detrimental to the value of the homes. He believes that the Board is here to protect the value of the home and this is detrimental to the value of the home. Thank you for listening.

Ms. Milbauer described her property's location to the business. The business has been very considerate with the noise. She acknowledges the noise and people but thinks that it is bearable. However, the amendment will mean more space for more people and it will affect her views and enjoyment of her property. There was discussion of the height of the boat.

Scott Fegler, Marina Bay Ct., is only a recent property owner and opposes the application. The parking situation will only get worse and the business will continue to grow. He purchased the property from an owner who moved because of the Seafarer.

Ms. Domings states that the applicant has not complied with the 2015 agreement and does not trust them to be compliant with agreement if approved. Chair Knox reminded the limitations of the Board.

Joe Shanagan, Honeysuckle Lodge, expressed concern about attendees trespassing and invading their private community and safety.

Amy Nightingale, Marina Bay Ct., believes that the amendment is good for business but bad for the neighbors and asks the Board for consideration of the neighbors.

Ms. Bonet asks the board to consider the neighbors. All the neighbors are here because of their concern. Mr. Baker added that he's willing to work with the neighbors.

Ms. Milbauer asked if there was a rendering of how high the boat will be for her to better visualize it. Ms. Curley answered that the boat is 24 feet high and that if they were to build a structure there, they would be able to build up to 36 feet.

Mr. Quinn asked how far out on the water could the boat be placed and how high it could go. Chair Knox answered that as it's a boat, zoning limitations does not apply. Mr. Cramer asked if the applicant could build a 2-story, 36-ft high structure on the property instead. Ms. Curley answered yes. He asked if they are opting for the boat instead of constructing a building. Mr. Monroe answered what the description of the building could be should they decide to build instead of utilizing the boat. There was discussion as to what could happen.

Ms. LaRussa stated that she appreciates the neighbors' concerns and she is very torn. She asked if they would need to come in front of the board if they decide to construct a building. Mr. Monroe answered yes, in some manner. Chair Knox noted that the boat is a lot less dense than what could happen. Mr. Cramer stated that he sees people fight an initial plan and could get something much worse.

With no more comments from the public, Chair Knox asked for a closing statement from Ms. Curley. She summarized the application, stating that it is a permitted use and conforming to the site plan and they are not seeking any variance. She gave suggestions as to what neighbors can do if they do not like the ordinance that permits the use.

Mr. Tombalakian summarized the application and the board's role. Applicant is not seeking any variance and no variance is triggered by their request. It conforms with the standards so the presumption is that it is an acceptable operation. Chair Knox asked for a motion to approve the amended use.

MOTION: Mr. Ziemba motioned to approve

SECONDED BY: Mr. Montecalvo

ROLL CALL:

YES: Mr. Kutosh, Ms. LaRussa, Mr. Montecalvo, Mr. Zill, Mr. Ziemba, Mr. Cramer, Chair Knox

NO: None

RECUSE: Ms. Chang

ABSENT: Mayor Broullon, Chief Burton, Mr. Lee, Councilmember Olszewski, Vice Chair Tierney

Ms. LaRussa expressed to Mr. Baker that she hopes he will work with the neighbors. Ms. Chang returned to the dais at 9:05pm.

APPROVAL OF MINUTES OF MAY 12, 2022 MEETING

Ms. Tran read list of eligible voters.

OFFERED BY: Mr. Kutosh

SECONDED BY: Mr. Montecalvo

YES: Mr. Kutosh, Mr. Montecalvo, Mr. Cramer, Chair Knox

NO:

INELLIGIBLE: Ms. LaRussa, Mr. Zill, Ms. Chang, Mr. Ziemba

ABSENT: Mayor Broullon, Chief Burton, Mr. Lee, Councilmember Olszewski, Vice Chair Tierney

APPROVAL OF MINUTES OF MAY 26, 2022 SPECIAL MEETING

Ms. Tran read list of eligible voters.

OFFERED BY: Ms. LaRussa

SECONDED BY: Mr. Cramer

YES: Ms. LaRussa, Mr. Montecalvo, Mr. Zill, Mr. Cramer, Chair Knox

NO:

INELLIGIBLE: Mr. Kutosh, Ms. Chang, Mr. Ziemba

ABSENT: Mayor Broullon, Chief Burton, Mr. Lee, Councilmember Olszewski, Vice Chair Tierney

COMMUNICATION AND VOUCHERS – None

EXECUTIVE SESSION – Tabled for July meeting.

ADJOURNMENT

Offered by: Ms. LaRussa
Seconded by: Mr. Kutosh
All in favor
None Opposed
Adjourned at 9:07pm.

I, Nancy Tran, certify that this is a true and correct record of the actions of the Borough of Highlands Land Use Board on June 9, 2022.



Nancy Tran, Land Use Board Secretary