



Borough of Highlands LUB Meeting Minutes
Community Center, 22 Snug Harbor Ave., Highlands, NJ
September 14, 2023

Chair Robert Knox called the meeting to order at 7:00pm and 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: Mayor Broullon, Chief Burton, Mr. Kutosh, Mr. Montecalvo, Councilmember Olszewski, Mr. Zill, Vice Chair Tierney, Chair Knox, Ms. Chang, Mr. Cody

Absent: Ms. LaRussa, Mr. Cramer

Also Present: Steve Tombalakian, Esq., Edward Herrman, and Board Secretary Nancy Tran

PUBLIC COMMENTS: None

ACTION ON OTHER BUSINESS: None

RESOLUTIONS: Resolution for application LUB2022-11: Sea Grass was not ready yet.

HEARINGS ON NEW BUSINESS:

LUB2023-04: Florit – 357 Shore Dr., B103 L8

Salvatore Alfieri, applicant's attorney, introduced himself and noted that the objector's attorney, Bernard Reilly, was present. Mr. Reilly stated that his client is Neal Taber. Mr. Alfieri stated that their notice for 13 variances is misleading as some were pre-existing conditions. He gave a brief background of the project and noted that the applicant received zoning and construction permits prior to construction.

Nicole Florit, applicant and co-owner, was sworn in and gave her history with the property and the proposed project. As Ms. Florit got emotional, Mr. Reilly noted that land use issues are not personal. Ms. Florit continued describing the situation and stated that with the project halted in its current state, changing things back is not possible.

Chair Knox relayed his experience with the previous Land Use Board application for this property. Mr. Alfieri summarized the previous LUB application. Mr. Herrman added more details about the previous demolition to the present.

Mr. Reilly questioned Ms. Florit regarding her purchase of the property and her knowledge of the history of the property. Chair Knox asked Mr. Herrman to compare the previous LUB application with the current LUB application. Mr. Herrman stated that the previous LUB application asked to

raise a one-story home but that the one-story was not a condition of approval. He noted that the crux of the matter was that the previous application asked for a one-story and its approval was for the so asked one-story. The current application does not require a height variance. The pre-existing rights and any deviation of height or second floor was not precluded from the previous 2015 approval. In his opinion, the main issue with the current application is the front setback. Mr. Herrman then gave a recount of Highlands after Super Storm Sandy and the purpose of Section F of the Borough Code. Chair Knox asked for clarification of Section F and Mr. Zill asked for clarification of the recent Zoning Officer's decision. Mr. Reilly noted that the Zoning decision was incorrect due to the 2015 LUB approval. Chair Knox noted that there's a difference between new construction and renovation. Mr. Herrman noted that the Code's purpose is to focus on any intensification of pre-existing variances. Mr. Reilly argued that Code limited conditions on which one could build on undersized lots. Chair Knox called for point of order and Mr. Reilly stated that he had no further questions for Ms. Florit. Mr. Alfieri noted that the present application seeks variances.

Antonio Scalise, the applicant's architect, was sworn in and handed out Exhibit A3 before describing the proposed project, noting the description of the property and its pre-existing non-compliances before construction started. He also noted that the construction is within the existing footprint of the property and that the proposed structure height is compliant. Mr. Scalise listed similar neighboring properties and reported on the general characteristics of the neighborhood.

Ms. Chang asked for clarification of the difference between the handout and what was submitted with the application and asked if the front set back was different. Mr. Scalise answered that the colorized handout clarified the setbacks and showed more conservative numbers. Mr. Herrman confirmed that the plans were the same. Mr. Zill asked if the proposed project was any larger than neighboring properties.

Mr. Reilly cross-examined Mr. Scalise. Mr. Tombalakian clarified the terms used by Mr. Alfieri and Mr. Reilly.

Andrew Janiw, the applicant's planner, was sworn in and gave his credentials and experience, which the Board accepted. He described the property, the proposed project, the characteristics of the neighborhood, and neighboring properties using Exhibits A3-A11. Mr. Janiw examined Code 21-98 Section F and compared how proposed project deviates from it. He compared the proposed project with the Master Plan and listed variances needed. Chair Knox asked if building coverage was the only new variance sought and Mr. Janiw replied that there were 2 new variances requested. Mr. Reilly cross-examined Mr. Janiw. Chair Knox reminded everyone that each Land Use application is judged on its own merits.

Prior to Mr. Reilly began presenting the objector's case, Mr. Thomas Hirsch, attorney for Ms. Kerry Farrell, asked if the Board would be hearing her application tonight. After some Board discussion, Mr. Tombalakian announced that the Farrell application would be carried to the November 9th meeting without re-noticing. Board recessed at 8:55pm and returned at 9:07pm.

Mr. Reilly introduced Exhibit O1, the 2015 resolution approving variance. Andrew Thomas as the objector's planner. Mr. Thomas was sworn in and gave his credentials and experience. Mr. Thomas

described the properties in the area and then described the applicant's property preconstruction and proposed project. He explained Code 21-98 Section F and Mr. Alfieri stated that the applicant stipulated to it. Mr. Kutosh asked if neighboring houses were longer than the proposed project. Mr. Thomas answered yes and continued his testimony analyzing the proposed project with neighboring properties. Chief Burton asked what project could be done. Mr. Thomas discussed the relevance of previous zoning denials for the property by different owners. Mr. Alfieri cross-examined.

Neal Taber was sworn in as the objector and stated his history with the applicant's property. He described the impact of the proposed project to his property. Mr. Alfieri cross-examined. Vice Chair Tierney asked about Mr. Taber's backyard setback. Mr. Kutosh stated that the non-conforming neighbor property at 355 Shore Dr. may be raised in the future.

Chair Knox opened the floor for public comment.

Mary Ryan, Shore Dr., stated that she spoke at the 2015 application hearing, gave a brief history of the application, and voiced her objection to the application.

Chris Moran, Highland Ave., voiced his support of the application.

Don Tarpey, Shore Dr., voiced his support of the objector.

Don Ryan, Shore Dr., voiced his objection to the application. The Board cautioned Mr. Ryan from making slanderous remarks.

Daniel Maier, Shore Dr., voiced support of the application.

Ellen Williams, Shore Dr., gave history of the property and previous owners and voiced her support of the application.

Cody Fitzsimmons, Bayside Dr., voiced his objection to the application and gave his interpretation of the 2015 resolution. Mr. Tombalakian clarified the import of a resolution and noted that it is not the same as a deed restriction.

Mr. Reilly summarized that no emotions should be involved in making a decision to a Land Use issue. He noted that application is requesting 12 variance and that applicant has not proven hardship, C1, C2, or C4.

Mr. Alfieri summarized the width of the lot and that the project is consistent with the neighborhood and standards have been met.

Mr. Tombalakian summarized the application. The Board discussed undersized lots and the Master Plan.

Mr. Zill motioned to approve and Vice Chair Tierney seconded.

OFFERED BY: Mr. Zill

SECONDED BY: Vice Chair Tierney

AYE: Mayor Broullon, Chief Burton, Mr. Kutosh, Mr. Montecalvo, Councilmember Olszewski, Mr. Zill, Vice Chair Tierney, Chair Knox, Ms. Chang, Mr. Cody

NAY: None

INELIGIBLE: None

ABSENT: Ms. LaRussa, Mr. Cramer

APPROVAL OF MINUTES:

August 10, 2023 Meeting Minutes

OFFERED BY: Mayor Broullon

SECONDED BY: Councilmember Olszewski

All who could vote were in favor. None opposed.

INELIGIBLE: Chief Burton, Mr. Kutosh, Vice Chair Tierney, Chair Knox

ABSENT: Ms. LaRussa, Mr. Cramer

COMMUNICATION:

Land Use Board 2022 Annual Report was carried to the November meeting.

ADJOURNMENT

Offered by: Councilmember Olszewski

Seconded: Mayor Broullon

All in favor. None Opposed

Adjourned at 10:43pm

I, Nancy Tran, certify that this is a true and correct record of the actions of the Borough of Highlands Land Use Board on September 14, 2023.



Nancy Tran, Land Use Board Secretary