



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

Acting Chair Bruce Kutosh called the meeting to order at 7:00pm and asked all to stand for the Pledge of Allegiance.

Prior to the start of the meeting, Steve Tombalakian swore in newly appointed Board Member Stacy Vickery.

Acting Chair Kutosh congratulated Ms. Vickery and then 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, Ms. LaRussa, Councilmember Olszewski, Mr. Zill, Vice Chair Tierney, Acting Chair Kutosh, Ms. Chang, Mr. Cramer, Mr. Cody, Ms. Vickery

Absent: Chief Burton, Mr. Montecalvo, Chair Knox

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

PUBLIC COMMENTS: Hugh Sharkey, Shrewsbury Ave., asked for clarification of required variances for undersized lots. Mr. Herrman explained Section 21-98.

APPROVAL OF MINUTES:

September 14, 2023 Meeting Minutes

OFFERED BY: Mayor Broullon

SECONDED BY: Vice Chair Tierney

All who could vote were in favor. None opposed.

INELIGIBLE: Ms. LaRussa, Mr. Cramer, Ms. Vickery

ABSENT: Chief Burton, Mr. Montecalvo, Chair Knox

September 27, 2023 Special Meeting Minutes

OFFERED BY: Mayor Broullon

SECONDED BY: Councilmember Olszewski

All who could vote were in favor. None opposed.

INELIGIBLE: Ms. LaRussa, Mr. Cramer, Ms. Vickery

ABSENT: Chief Burton, Mr. Montecalvo, Chair Knox

COMMUNICATION:

Land Use Board 2022 Annual Report

OFFERED BY: Mayor Broullon

SECONDED BY: Ms. Chang

AYE: Mayor Broullon, Ms. LaRussa, Councilmember Olszewski, Mr. Zill, Ms. Chang, Mr. Cramer, Mr. Cody, Vice Chair Tierney, Acting Chair Kutosh
NAY: None
INELIGIBLE: Ms. Vickery
ABSENT: Chief Burton, Mr. Montecalvo, Chair Knox

RESOLUTIONS:

LUB Res 2023-14: Sea Grass - Conditional Use

OFFERED BY: Vice Chair Tierney

SECONDED BY: Acting Chair Kutosh

AYE: Ms. LaRussa, Mr. Zill, Ms. Chang, Mr. Cramer, Vice Chair Tierney, Acting Chair Kutosh

NAY: None

INELIGIBLE: Mayor Broullon, Councilmember Olszewski, Mr. Cody, Ms. Vickery

ABSENT: Chief Burton, Mr. Montecalvo, Chair Knox

HEARINGS ON NEW BUSINESS:

LUB2023-03: Farrell, 32 Shrewsbury Ave, B43 L7

Vice Chair Tierney stepped down from the dais to recuse herself.

Thomas Hirsch, applicant's attorney, and Steven Ward, objector's attorney, introduced themselves. Then Mr. Hirsch gave a history of the applicant's proposed project. Mr. Ward questioned the applicant's notice describing the garage as attached rather than detached and asked about the missing riparian lot. Mr. Tombalakian explained the reason for noticing and believed that the notice was acceptable. The Board agreed.

Kerry M. Farrell, applicant, was sworn in and gave a history of her ownership of the property and the proposed project. Exhibits A-1 – A-3 were introduced. Acting Chair Kutosh asked for clarification of the state of the structure after Super Storm Sandy. Mr. Ward cross examined Dr. Farrell. Mr. Hirsch stipulated that the applicant did not appeal the previous denial.

Robert Adler, applicant's architect, was sworn in and described the garage before and after Super Storm Sandy. He described the proposed project design, noting that fire compliance and setbacks. Mr. Tombalakian asked if proposed garage was attached or detached and its distance from the main house. Mr. Herrman asked for clarification that applicant was going to fire rate the whole structure rather than the minimum building code. Mr. Hirsch clarified the notice language.

Mr. Adler continued his testimony and discussed other possible options for the location of the garage and its impact on the neighboring properties and approval probability from third party agencies. Mr. Herrman asked for clarification of setbacks. He explained zoning protection and pre-existing non-conformity rights. Ms. LaRussa asked for further clarification. Mr. Tombalakian answered. Mr. Hirsh noted that the garage is not an issue but that its distance from the primary structure is. Acting Chair Kutosh asked for clarification of the timeline of events. Discussion ensued regarding grandfathered rights, permits, and destruction timeline. Mr. Tombalakian noted that the rights were gone before permits were issued. Dr. Farrell stated that her priority was fixing the house first after Super Storm Sandy. Mr. Tombalakian stated that the zoning officer at the time may have

missed noting required variance. Mr. Herrman could only conjecture but the zoning officer would have noted variance needed.

Mr. Ward cross examined Mr. Adler and asked how repairs to the exterior of the building between the 2 structures. Mr. Adler stated that the proposed project is designed with breakaway walls and that there were no changes to the main house. Mr. Tombalakian explained the different variance cases. Mr. Hirsh stated that the applicant does not need to prove benefit to the community.

Acting Chair Kutosh opened the floor for public questions.

Annemarie Tierney, Shrewsbury, asked if the proposed project reflects the look and feel of the neighborhood. Mr. Adler noted that a garage is a permitted structure and that the applicant is only going for variances. Mr. Cramer asked if there was a design standard.

Jake Kimmelman, Shrewsbury, was sworn in as the objector and noted his objections. Acting Chair Kutosh noted that renovations were verified and that Mr. Kimmelman's objections were a matter of aesthetics. Ms. Chang asked if variances were needed in the other scenarios that Mr. Adler had presented, and Mayor Broullon answered no. Mr. Hirsch cross examined Mr. Kimmelman. Mr. Cramer asked Mr. Kimmelman what his biggest concern with the project was.

Michelle Barbara, Shrewsbury, was sworn in as an objector and testified of her objections and concerns. Acting Chair Kutosh and Councilmember Olszewski asked for clarification of her property to Dr. Farrell. Mr. Hirsch cross examined Ms. Barbara.

Dr. Farrell returned to the podium to answer questions about other properties on Shrewsbury that were not lifted, whether the interior of her house was renovated, and about her history with the objectors. Mr. Ward asked about her need for a garage.

Mr. Tombalakian asked if there were any other public comments from those not represented by Mr. Ward.

Ms. Tierney thought that the stated hardship wasn't a hardship. She noted that she preferred the alternate locations that Mr. Adler had mentioned. She voiced concerns about potential fires and the breakaway walls.

Mr. Tombalakian noted that there was no cross examination on public comment.

Jerry Beyer, Shrewsbury, stated that he witnessed the previous fire. He thought that if the applicant was seeking a variance, then she should be more present at the property.

Mr. Zill asked Mr. Tombalakian about grandfathered rights and hypothetical options. Mr. Tombalakian answered that the property no longer had grandfathered rights and stated the Board's role. Councilmember Olszewski asked about the alternatives presented by Mr. Adler. Mr. Zill asked if a denial by CAFRA would be considered a hardship.

Mr. Ward and Mr. Hirsch gave their closing statements.

The Board discussed the application among themselves. Acting Chair Kutosh brought up grandfathered rights. Mayor Broullon noted that the applicant revised their plans and stated that the previous fire was of an abandoned property. Mr. Cramer stated that if the property had grandfathered rights he would be OK with it but had some hesitation because there was none. The Board further discussed about the timeline and the revisions.

OFFERED BY: Mr. Zill

SECONDED BY: Mr. Cody

AYE: Mayor Broullon, Councilmember Olszewski, Mr. Zill, Ms. Chang, Mr. Cody, Ms. Vickery, Acting Chair Kutosh

NAY: Ms. LaRussa, Mr. Cramer

INELIGIBLE: Vice Chair Tierney

ABSENT: Chief Burton, Mr. Montecalvo, Chair Knox

ADJOURNMENT

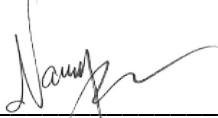
Offered by: Mayor Broullon

Seconded: Ms. LaRussa

All in favor. None Opposed

Adjourned at 9:46pm

I, Nancy Tran, certify that this is a true and correct record of the actions of the Borough of Highlands Land Use Board on October 12, 2023.



Nancy Tran, Land Use Board Secretary