



**Borough of Highlands LUB Meeting Minutes**  
**Community Center, 22 Snug Harbor Ave., Highlands, NJ**  
**November 9, 2023**

Chair Knox called the meeting to order at 7:01pm 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, Mr. Kutosh, Ms. LaRussa, Mr. Montecalvo, Councilmember Olszewski, Mr. Zill, Chair Knox, Ms. Chang, Mr. Cramer, Mr. Cody, Ms. Vickery

Absent: Chief Burton, Vice Chair Tierney

Also Present: Steve Tombalakian, Esq., Robert Yuro, and Board Secretary Nancy Tran

**PUBLIC COMMENTS:** Chris Sera asked about the roadwork for the Sanitary Sewer project and Chair Knox noted that the Council can better answer his concerns.

**APPROVAL OF MINUTES:**

October 12, 2023 Meeting Minutes

OFFERED BY: Mr. Kutosh

SECONDED BY: Mayor Broullon

AYES: Mayor Broullon, Mr. Kutosh, Ms. LaRussa, Councilmember Olszewski, Mr. Zill, Ms. Chang, Mr. Cramer

NAYS: None opposed.

INELIGIBLE: Mr. Montecalvo, Chair Knox

ABSENT: Chief Burton, Vice Chair Tierney

**RESOLUTIONS:**

**LAND USE BOARD RESOLUTION 2023-15**  
**MEMORIALIZATION OF EXTENSION OF USE VARIANCE RELIEF WITH**  
**PRELIMINARY AND FINAL MAJOR SUBDIVISION APPROVAL**

**Approved: August 10, 2023**  
**Memorialized: November 9, 2023**

**MATTER OF LDN, LLC**  
**APPLICATION NO. LUB-2021-01**

**WHEREAS**, an application for an extension of time for use variance relief with preliminary and final major subdivision approval has been made to the Highlands Land Use Board (hereinafter referred to as the "Board") by LDN, LLC (hereinafter referred to as the "Applicant") on lands

known and designated as Block 54, Lot 7.01 as depicted on the Tax Map of the Borough of Highlands (hereinafter "Borough"), more commonly known as 49 Miller Street in the CBD (Central Business District) Zone (hereinafter "Property"); and

**WHEREAS**, a public hearing was held before the Board on August 10, 2023 with regard to this application; and

**WHEREAS**, on or about June 30, 2023, the Board received a written request for an extension from the Applicant and at the August 10, 2023 hearing, heard statements from the Board Secretary 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 an extension of time for the use variance relief with preliminary and final major subdivision granted by the Board on November 4, 2021 and memorialized in a Resolution dated December 2, 2021.

2. The Applicant was granted use variance relief with preliminary and final major subdivision relief to create five (5) single-family dwelling lots. Single-family dwellings are not a permitted use in the CBD Zone and, use variance relief pursuant to N.J.S.A. 40:55D-70d(1) was therefore required.

3. The Applicant did not testify at the hearing but submitted a letter to the Board from attorney requesting the extension of time for the Board to sign off on the Final Plat which was on the Board's agenda for July 13, 2023. The Applicant's letter also explained that the reason for the extension request was that the Board had misplaced the Applicant's paperwork submitted for final plat approval in July of 2022, which had to subsequently be resubmitted.

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

5. The Board has received, reviewed, and considered the Applicant's June 30, 2023 written request for an extension, Land Use Board Resolution granting use variance relief with preliminary and final major subdivision approval dated December 2, 2021 pursuant to N.J.S.A. 40:55D-52. 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 LDN, LLC for a one-year extension of time pursuant to N.J.S.A. 40:55D-52.

The Board acknowledges that the Applicant has diligently outside approvals and final plat from the Board but that due to circumstances beyond its control the Applicant has faced unavoidable and unexpected delays. The Board, therefore, finds that an extension of time of one-year pursuant to N.J.S.A. 40:55D-52 is appropriate in this circumstance.

**NOW, THEREFORE, BE IT RESOLVED** by the Highlands Land Use Board on this 9<sup>th</sup> day of November 2023, that the action of the Land Use Board taken on August 10, 2023 granting

Application No. LUB-2021-01 of LDN, LLC for an extension of time for use variance relief with preliminary and final major subdivision be and the same is hereby memorialized as follows:

The application is granted subject to the following conditions:

1. The Applicant is granted a one-year extension of time.
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.

Mr. Tombalakian explained the resolution.

OFFERED BY: Councilmember Olszewski

SECONDED BY: Chair Knox

AYE: Ms. LaRussa, Mr. Montecalvo, Councilmember Olszewski, Mr. Zill, Mr. Cramer, Chair Knox

NAY: None

ABSTAIN: Mayor Broullon, Mr. Kutosh, Ms. Chang

ABSENT: Chief Burton, Vice Chair Tierney

**LAND USE BOARD RESOLUTION 2023-16  
MEMORIALIZATION OF EXTENSION OF MINOR SUBDIVISION APPROVAL  
WITH ANCILLARY VARIANCE RELIEF**

**Approved: August 10, 2023**  
**Memorialized: November 9, 2023**

**MATTER OF MARIE MARTIN  
APPLICATION NO. LUB2022-06**

**WHEREAS**, an application for an extension of time for minor subdivision approval with ancillary variance relief has been made to the Highlands Land Use Board (hereinafter referred to as the "Board") by Marie Martin (hereinafter referred to as the "Applicant") on lands known and designated as Block 77, Lot 15 as depicted on the Tax Map of the Borough of Highlands (hereinafter "Borough"), more commonly known as 15 Barberie Avenue in the R-2.01 (Single Family Residential) Zone (hereinafter "Property"); and

**WHEREAS**, a public hearing was held before the Board on August 10, 2023 with regard to this application; and

**WHEREAS**, on or about June 22, 2023, the Board received a written request for an extension of minor subdivision approval from the Applicant and at the August 10, 2023 hearing, heard statements from the Board Secretary 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 an extension of time for the minor subdivision approval with ancillary variance relief granted by the Board on October 13, 2022 and memorialized in a Resolution dated December 20, 2022.
2. The Applicant was granted minor subdivision approval with ancillary variance relief to subdivide the subject Property into two (2) new lots. Proposed Lot 15.01 would contain the existing two-story, single-family dwelling. The minimum front yard setback of the existing dwelling would be nine (9) feet, whereas 20 feet is required, therefore variance relief was required. Variance relief was also granted for the maximum building coverage of 35.56% for proposed Lot 15.01, whereas a maximum of 33% was permitted. The proposed dwelling on proposed Lot 15.02 would comply with the Zoning Ordinance.
3. The Applicant did not testify at the hearing but submitted a letter to the Board from her counsel, requesting the extension of 180 days. The Applicant's letter dated June 22, 2023 explained that the reason for the extension request was to allow additional time to complete the filing with the County Clerk due to delays with third-party approvals.
4. There were no members of the public expressing an interest in this application.
5. The Board has received, reviewed, and considered the Applicant's June 22, 2023 written request for an extension of time of the Resolution approving minor subdivision approval with ancillary variance relief dated December 20, 2022 pursuant to N.J.S.A. 40:55D-47. 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 Marie Martin for a 180-day extension of time for minor subdivision approval pursuant to N.J.S.A. 40:55D-47.

The Board acknowledges that the Applicant has diligently sought filing with the County Clerk and obtaining outside approvals and that due to circumstances beyond her control has faced unavoidable and unexpected delays. The Board, therefore, finds that a 180-day extension of time is appropriate in this circumstance pursuant to N.J.S.A. 40:55D-47.

**NOW, THEREFORE, BE IT RESOLVED** by the Highlands Land Use Board on this 9<sup>th</sup> day of November 2023, that the action of the Land Use Board taken on August 10, 2023 granting Application No. LUB-2022-06 of Marie Martin an extension of time for minor subdivision approval

with ancillary variance relief pursuant to N.J.S.A. 40:55D-47 and the same is hereby memorialized as follows:

The application is granted subject to the following conditions:

1. The Applicant is granted a 180-day extension of time.
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.

OFFERED BY: Chair Knox

SECONDED BY: Mayor Broullon

AYE: Mayor Broullon, Ms. LaRussa, Mr. Montecalvo, Councilmember Olszewski, Mr. Zill, Mr. Cramer, Chair Knox

NAY: None

ABSTAIN: Mr. Kutosh, Ms. Chang

ABSENT: Chief Burton, Vice Chair Tierney

**LAND USE BOARD RESOLUTION 2023-17  
MEMORIALIZATION VARIANCE APPROVAL**

**Approved: October 12, 2023  
Memorialized: November 9, 2023**

**IN THE MATTER OF KERRY M. FARRELL  
APPLICATION NO. LUB 2023-03**

**WHEREAS**, an application for minor site plan approval with ancillary variance relief has been made to the Highlands Land Use Board (hereinafter referred to as the "Board") by Kerry M. Farrell (hereinafter referred to as the "Applicant") on lands known and designated as Block 43, Lot 7, as depicted on the Tax Map of the Borough of Highlands (hereinafter "Borough"), and more commonly known as 32 Shrewsbury Avenue in the WT-R (Waterfront Transition-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**, a public hearing was held on October 12, 2023, 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**, the Highlands Land Use Board makes the following findings of fact and conclusions of law with regard to this application:

1. The subject Property contains 7,180 s.f. with 47.5 feet of frontage on Shrewsbury Avenue and is improved with an existing single-family, two-story dwelling. The subject Property is located within the WT-R (Waterfront Transition Residential) Zone.

2. The Applicant is seeking variance relief to reconstruct a one-story wood framed garage located in the side yard, together with minor site plan approval to the extent such relief is required to allow for construction of a new detached garage at the original location of the garage serving this property.

3. In accordance with Section 21-93 of the Ordinance existing/proposed bulk deficiencies are noted as follows. The minimum lot frontage allowed is 50 feet, whereas 47.5 feet is existing and is proposed. The minimum front yard setback for an accessory structure is 55 feet, whereas 54.8 feet is existing and is proposed. The minimum side yard setback for an accessory structure is 3 feet, whereas 0.90 feet is existing and is proposed.

4. Counsel for the Applicant, Thomas Hirsch, Esq. appeared on behalf of the Applicant and provided a background history of the property and the issues pertaining to the accessory garage. The property has always been utilized as a single-family home which home exists today. The house historically also had a detached (set off less than a foot of the principal structure) one-car garage which was severely damaged during Sandy. Applicant sought a variance to rebuild the garage, however, sought to have a second level for additional storage whereas the original garage was only one story. Applicant sought to put the garage over the same foundation of the original garage and therefore required a side yard setback. That application was originally granted unanimously; however, as a result of a notice issue, the application had to be reheard at which time the application did not receive a majority vote and therefore was denied previously by this Board.

5. Applicant now returns before the Board having filed a new application with a redesigned one-story attached garage emulating the original garage which requires a side yard setback variance. The front façade of the principal dwelling is set back from the front yard property line by approximately 68.5 feet where only 35 feet is required. The proposed garage, which is being built over the existing slab from the original garage, may be slightly closer to the front yard than the existing façade of front porch.

6. The Applicant, Dr. Kerry Farrell, testified that she has owned the subject Property since 2012 and it had been owned by members of her family prior to that time. She stated that the house was built in 1904 and that the garage was built in the 1940s. Dr. Farrell noted that members of her family had purchased the subject Property in 1954 and it has been in her family since. Dr. Farrell then testified that Hurricane Sandy had punched a hole in the rear wall of the garage. After Sandy, Dr. Farrell removed some of the damaged walls and roof that were in danger of collapse. She stated that the concrete foundation, two (2) walls and beams of the roof remained. Dr. Farrell also stated that she prepared plans with an architect to rebuild the garage in June 2016, and obtained construction and electrical permits from the Borough in July 2016.

Dr. Farrell further testified that after her permits were issued, the Flood Plain Administrator and Zoning Officer advised Dr. Farrell that the area had been placed in a new flood zone that did not permit garages. In 2016, the Borough Construction Official issued a stop-work order because too much (more than 50%) of the original garage had been torn down. Dr. Farrell provided additional testimony that the subject Property was placed in a new flood zone again in 2018. This time with garages as permitted structures.

7. Dr. Farrell testified that she was now seeking variance relief from the side yard setback and front yard setback requirements. She explained that variance relief was required because more than 50% of the original structure was taken down and the conditions are no longer considered “pre-existing.” Dr. Farrell then confirmed that the residential use is not being changed.

8. The Applicant’s Architect, Robert Adler, P.A. testified that the proposed garage would be built upon the existing foundation and have a height of 10 feet 6 inches, which was the original garage height based off photographs of the former structure. Mr. Adler reinforced the fact that having a garage was a permitted accessory structure; it was only restoring it as originally located that creates a setback variance under the new ordinance. Demolition of the remaining structure post-Sandy removed any preexisting non-conforming protections enjoyed by the original structure. Mr. Adler then focused on the proposed design. In order to minimize encroachments into the sideyard setback, the garage will not have external gutters.

9. Mr. Adler also described an analysis he had undertaken to consider alternative locations on the property for the replacement garage, but neither location was deemed superior to the original location, either because CAFRA permitting would be prohibitive, or would detrimentally impact view now enjoyed by adjoining properties. Mr. Adler referenced a two (2) page exhibit (considered part of the Application Package) that depicted the visual impacts a relocated garage structure could pose on adjoining properties.

10. Mr. Adler also provided testimony supporting the grant of the setback variances. In order to help aesthetics, the garage will have a decorative design both front and rear, with cornice detailing constructed using Azek composite materials for enhance durability. A crown molding with cap are also proposed to further enhance aesthetics. The interior storage of equipment ordinarily kept within a garage is a superior planning alternative than outside storage and provides a community benefit in that regard. Replacing the garage as originally located will have the least impact on such views by comparison. Mr. Adler opined that the setback variances were supported under both the c(1) and c(2) criteria.

11. Attorney Steven W. Ward appeared on behalf of interested parties Jake Kimmelman and Jenna Heckler, owners of 34 Shrewsbury Ave., and Frank and Michelle Barbara, owners of 30 Shrewsbury Ave., which lots are contiguous to and immediately north and south, respectively, of the Subject Property. Mr. Ward raised the issue of the Applicant’s public notice only referencing Lot 7, without reference to Lot 7.01. The Board found that no development was being proposed for Lot 7.01, a riparian lot, to warrant its inclusion in the public notice.

12. Mr. Ward next took issue with the wording of the Applicant’s public notice, primarily the use of the word “attached” rather than detached to describe the proposed replacement accessory structure. The Applicant confirmed that the garage was in fact proposed to be detached, not attached, although the proposed structure is to be located quite close to the principal dwelling structure. The Board found that use of the term attached versus detached was

harmless error that would not result in any confusion as the submitted plans correctly depicted the proposal.

13. Mr. Ward then explained that the Applicant should be required to obtain variances for front yard and side yard setback encroachments, consistent with this Board's findings as detailed in Resolution 2022-14 memorialized July 14, 2022. The Board agrees with Mr. Ward that both setbacks require variance relief to allow the garage to be placed as originally located, but found that the Applicant's public notice addressed this contingency satisfactorily.

14. Additionally, several other nearby property owners and Borough residents appeared to voice objection to the proposed replacement garage structure, raising issues such as the part time occupancy of the Applicant's property, fire safety, conformity with other structures along Shrewsbury, and a preference to place the replacement garage deeper into the Subject Property, notwithstanding the CAFRA and greater impacts upon view enjoyed by neighboring properties.

15. There were no other members of the public expressing an interest in the application, at which time the public portion was closed. The Board considered each issue raised during public and found that they neither individually nor collectively outweighed the proofs put forward by the Applicant and her professionals in support of relocating the garage upon its original foundation location.

**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 site plan approval pursuant to N.J.S.A. 40:55D-46.1 along with variance relief to allow encroachments into the front yard and side yard setbacks pursuant to N.J.S.A. 40:55D-70c should be approved.

The Municipal Land Use Law, at N.J.S.A. 40:55D-70c provides Boards with the power to grant variances from strict ancillary 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. In this regard the lot in question is deficient in width by 2.5 feet and a fully conforming lot would not need the side yard setback variance. 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. In this regard the location of the principal structure and the pre-existing garage foundation justified the variance requested.

The Board finds that the Applicant has satisfies the positive criteria. The Board first addresses the Applicant's request for a hardship variance pursuant to N.J.S.A. 40:55D-70c(1). The Board finds that the Applicant is merely seeking to reconstruct the garage, an approved accessory use of the property, at the same dimensions, but with improved fire protection ratings. While only the one exterior wall adjacent to the adjoining structure needs to be fire rated, the Applicant agreed



to provide fire rated construction for the entire accessory structure and designed to accommodate future flooding events. The Board also finds that the positive criteria has been satisfied under the “flexible” variance standard at N.J.S.A. 40:55D-70c(2). The Applicant’s Architect testified that the grant of variance relief would create a desirable visual environment, and that its placement as originally located would have the least impact upon the views enjoyed by neighboring properties. Based upon the foregoing, the Board finds that the Applicant has satisfied the positive criteria under both the c(1) and c(2) criteria.

The Board also finds that the Applicant has satisfied the negative criteria. The Board finds that the proposed detached garage design is comparable to the design that existed for decades on this property without issue. That design also compliments the principal structure which was not required to be lifted post-Sandy. While other properties along Shrewsbury have been lifted post-Sandy, reconstruction of the garage at its original location and dimensions will have even less impact, if any, than before the neighboring homes were lifted and have no demonstrable impact upon the light, air and open space enjoyed by those nearby properties. The Board therefore finds that the grant of variance relief to allow the accessory structure setbacks as proposed would not result in any substantial detriment to the public good, nor a substantial impairment of the zone ordinance and the zone plan, therefore satisfying the negative criteria to allow granting of the variance relief required to allow garage reconstruction.

Upon consideration of the plans, testimony and application, the Board determines the Applicant has met the minimum requirements of the Municipal Land Use Law, Case Law and Borough Ordinances to a sufficient degree so as to enable the Board to grant minor site plan approval, to the extent same is requested or applicable to the variance relief also being granted herewith.

**NOW, THEREFORE, BE IT RESOLVED** by the Land Use Board of the Borough of Highlands on this 9<sup>th</sup> day of November 2023, that the action of the Land Use Board taken on October 12, 2023 approving Application No. LUB2023-03 for bulk variance relief pursuant to N.J.S.A. 40:55D-70c(1) and (2), together with minor site plan approval pursuant to N.J.S.A. 40:55D-46.1 to the extent deemed necessary, to allow the reconstruction of an accessory garage structure to be implemented in accordance with the plan submitted and the testimony provided by both the Applicant and her professionals, is hereby memorialized.

**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.

OFFERED BY: Mr. Kutosh

SECONDED BY: Councilmember Olszewski

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

NAY: None

INELIGIBLE: Ms. LaRussa, Mr. Montecalvo, Mr. Cramer, Chair Knox

ABSENT: Chief Burton, Vice Chair Tierney

**OTHER BUSINESS:**

Review of O-23-22 Salt Storage Ordinance

Mayor Broullon explained that the Ordinance affected one property.

OFFERED BY: Ms. LaRussa

SECONDED BY: Chair Knox

AYE: Mayor Broullon, Mr. Kutosh, Ms. LaRussa, Mr. Montecalvo, Councilmember Olszewski, Mr. Zill, Ms. Chang, Mr. Cramer, Chair Knox

NAY: None

INELIGIBLE: Ms. Vickery

ABSENT: Chief Burton, Vice Chair Tierney

LUB2021-01: LDN Real Estate, 49 Miller St., B54 L7.01 - Extension Request

OFFERED BY: Chair Knox

SECONDED BY: Mr. Montecalvo

AYE: Ms. LaRussa, Mr. Montecalvo, Councilmember Olszewski, Mr. Zill, Ms. Chang, Mr. Cramer, Mr. Cody, Chair Knox

NAY: None

ABSTAIN: Mayor Broullon, Mr. Kutosh

ABSENT: Chief Burton, Vice Chair Tierney

**HEARINGS ON NEW BUSINESS:**

LUB2023-05: Sharkey – 9 Shrewsbury Ave., B42 L2

Mary Sharkey, applicant, was sworn in and introduced Hugh Sharkey, her spouse, for his testimony. After being sworn in, Mr. Sharkey noted that the Board Engineer had no issue with the title of the property. He gave his history of the lot and described the proposed project. Ms. Sharkey added that the proposed project meets with the character of the neighborhood.

Mr. Yuro explained Section 21-98 and its 6 criteria. He listed the variance the proposed project needed and, after confirming the revised plans dated 11/07/2023, noted that there were no substantial changes from the original submission.

Salvatore LaFerlita, applicant's architect, was sworn in and described the lot and his revised plans that addressed some of Mr. Herrman's review. Mr. LaFerlita stated that if the covered decks were not counted toward lot coverage, then the proposed building is more compliant. Mr. Yuro asked if the rec room on the 3<sup>rd</sup> floor would be converted to a bedroom in the future as it could present a parking requirement issue. He added that per ordinance, the covered deck is counted toward the lot coverage calculation. Mr. Yuro stated that the architect's plans and the engineer's plans differ; thus, for resolution compliance, they would need to be synced and Mr. Sharkey acknowledged. Ms. Chang asked about the building height and Mr. LaFerlita answered that no variance is needed. Councilmember Olszewski asked if a building was ever on the vacant lot and Mr. LaFerlita answered that a cottage existed about 40 years ago. Mr. LaFerlita asked if the utility box can be located in the back and Mr. Yuro answered that JCP&L dictated the location. Ms. Sharkey remarked that she plans to use the rec room as her home office. Mr. Tombalakian noted that the question is if the next owner decides to convert it into a bedroom. Ms. Sharkey explained the reason for the proposed project and gave her justifications how the project is beneficial for

herself, the borough, and the neighborhood. Chair Knox asked the applicant's intention for property and their other abutting property and the drainage plans. Mayor Broullon asked for clarification of the proposed deck materials and the location of gutters.

Chair Knox opened the floor for public comments. Charles LaRue, 2<sup>nd</sup> St., noted that he's the builder referenced by the applicant who originally submitted a Land Use Board application proposing to build on the lot. He noted that Mr. Sharkey had objected to his application, then bought the property from the owner, and is now proposing to build with the same set backs that he originally objected. Chair Knox and Mr. Tombalakian note that the Board does not address such issues. Mr. Sharkey stated that the difference was that the developer was not going to live in the property and Mrs. Sharkey addressed Mr. LaRue's statement. Mayor Broullon and Chair Knox reiterated that this matter does not fall under the Board's jurisdiction. Mr. Cramer asked if the previous application was denied.

Mr. Zill motioned to approve. Mayor Broullon seconded with conditions of pervious decks and removal of vinyl fence. Chair Knox reiterated previous condition that the rec room on the 3<sup>rd</sup> floor would not be turned into a bedroom.

OFFERED BY: Mr. Zill

SECONDED BY: Mayor Broullon

AYE: Mayor Broullon, Mr. Kutosh, Ms. LaRussa, Mr. Montecalvo, Mr. Zill, Mr. Cramer

NAY: Councilmember Olszewski, Ms. Chang, Chair Knox

ABSTAIN: None

ABSENT: Chief Burton, Vice Chair Tierney

The Board took a break at 8:22pm and returned at 8:29pm.

#### LUB2023-02: Catcherman LLC – 17 Locust St., B101 L27.04

Daniel O'Hern, applicant's attorney, introduced the application and the applicant. Robert Davis, applicant, was sworn in and described his proposed project. He stated that he had gotten confirmation from the previous Zoning Officer of what was allowed on the lot but the current Zoning Officer denied his application. He didn't know how lot coverage calculations changed from Zoning Officer to the other. Mr. Yuro listed the variances the project needed. Chair Knox asked how many projects Mr. Davis has done in Highlands. Mr. Yuro noted that the plans included a bonus room that, if converted to a bedroom, would trigger need for a parking variance. Mr. Davis agreed that bonus room would remain so.

Sean Savage, applicant's engineer, was sworn in and described the proposed project – listing the variances that the proposed 3-story home needed. Mayor Broullon asked about the gutters, pervious decking materials, and drainage to the street. Mr. Yuro asked about the railroad ties and how the drainage plans would impact the neighbors. Mr. Kutosh asked about the utility platform.

Chair Knox opened the floor for public questions. Lou Longo, Locust St., clarified the lot size and noted that there had never been a structure on the lot and asked about the utility platform's steps. Chair Knox stated that the Construction Permit will require a grading plan. A discussion of the utility

platform and its steps ensued. Mr. Longo then asked about grease traps. Mr. Yuro asked if there is plans to relocate the air conditioning unit to the rear of the proposed structure? Charles LaRue, 2<sup>nd</sup> St., was sworn in as the applicant's contractor, and stated that he was OK with moving the A/C unit to the back but prefers it on the side. Mr. Yuro noted that the side set back on the plan would be less if the A/C unit is on the side. Mr. LaRue note that he wants to be considerate of the neighbors.

There were no public comments. Mr. Tombalakian listed the Board's conditions and Mr. Yuro added the applicant's agreement to lower the height of the building.

OFFERED BY: Mayor Broullon

SECONDED BY: Ms. LaRussa

AYE: Mayor Broullon, Mr. Kutosh, Ms. LaRussa, Mr. Montecalvo, Councilmember Olszewski, Mr. Zill, Mr. Cramer, Chair Knox

NAY: Ms. Chang

ABSTAIN: None

ABSENT: Chief Burton, Vice Chair Tierney

**ADJOURNMENT**

Offered by: Ms. LaRussa

Seconded: Mr. Montecalvo

All in favor. None Opposed

Adjourned at 9:20pm

I, Nancy Tran, certify that this is a true and correct record of the actions of the Borough of Highlands Land Use Board on November 9, 2023.

  
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Nancy Tran, Land Use Board Secretary