Borough of Highlands LUB Meeting Minutes
Municipal Building, 151 Navesink Ave., Highlands, NJ
April 11, 2024

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. Cramer (arrived at 7:02pm), Mr. Cody, Ms. Vickery,
Absent: Ms. LaRussa
Also Present: Board Attorney Austin Mueller, Esq., and Board Secretary Nancy Tran

PUBLIC COMMENTS: Bill Osborne, Bay Ave., asked if a trailer was allowed on the property while there's construction. Chief Burton replied that the Building Department can answer that question.

APPROVAL OF MINUTES:
March 14, 2024 Meeting Minutes
OFFERED BY: Vice Chair Tierney
SECONDED BY: Councilmember Olszewski
AYES: Mayor Broullon, Chief Burton, Mr. Kutosh, Mr. Montecalvo, Councilmember Olszewski, Mr. Zill, Ms. Chang, Vice Chair Tierney, Chair Knox
NAYS: None
ABSTAIN: None
ABSENT: Ms. LaRussa

RESOLUTIONS:
Memorializing Resolution for LUB24-01: Caulfield – 137 Highland Ave., B26 L14

LAND USE BOARD RESOLUTION 2024-12
MEMORIALIZATION OF BULK VARIANCE RELIEF

IN THE MATTER OF DAVID CAULFIELD **Approved: March 14, 2024**
APPLICATION NO. LUB2024-01 **Memorialized: April 11, 2024**

WHEREAS, an application for bulk variance relief has been made to the Borough of Highlands Land Use Board (hereinafter referred to as the "Board") by David Caulfield (hereinafter referred to as the "Applicant") on lands known and designated as Block 26, Lot 14, as depicted on the Tax Map of the Borough of Highlands (hereinafter "Borough"), and more commonly known as 137 Highland Avenue, Highlands, New Jersey, in the R-1.01 Single-Family Residential (R-1.01) Zone District (hereinafter "Property"); and

WHEREAS, a live public hearing was held before the Board on March 14, 2024, with regard to this application; and

WHEREAS, the Board has heard testimony and comments from the Applicant, witnesses and consultants, 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 subject Property contains 2,680 square feet with 40.0 feet of frontage on Highland Avenue within the R-1.01 (Single-Family Residential) Zone.

2. The subject Property is an existing undersized lot which contains 2,680 square feet with 40.0 feet of frontage on Highland Avenue within the R-1.01 (Single-Family Residential) Zone. The Applicant has represented that the lot has existed since 1918. The subject Property is improved with an 855 square foot single-story frame dwelling with decking and other site improvements. The Applicant has represented that the home on the lot has existed since 1918.

3. The Applicant is proposing to construct a 201.3 square foot single-story rear addition within the footprint of an existing deck which requires variance relief. The Applicant had received a Denial of Zoning Permit on January 19, 2024 for non-compliance with bulk requirements. The Applicant requires three (3) bulk variances in addition to the existing non-compliant bulk conditions.

4. Variance relief is required as summarized below:

R-1.01 Residential Zone	Required	Existing	Proposed	Variance
Minimum Lot Area	5,000 sf	2,680 sf	2,680 sf	Existing
Lot Frontage/Width	50 ft	40 ft	40 ft	Existing
Minimum Lot Depth	100 ft	70 ft	70 ft	Existing
Minimum Front Yard Setback	35 ft	17.6 ft	17.6 ft	Existing
Minimum Side Yard Setback	8 ft/12 ft	5.3 ft/6.7 ft	5.0 ft*/6.7 ft	New
Minimum Rear Yard Setback	25 ft	3.6 ft	3.6 ft & 5.0 ft*	New
Maximum Building Coverage	30%	31.9%	39.4%	New
On-Site Parking	1.5 spaces	0.0	0.0	Existing

*Proposed Addition

5. Counsel for the Applicant, John B. Anderson, Esq., stated that the subject Property was improved with an existing single-family dwelling, which according to Borough Tax Records has been in existence since 1918. He stated that the single-family dwelling contained one-bedroom. Mr. Anderson also described the subject Property as narrow, shallow and undersized.

6. Mr. Anderson represented that the Applicant was proposing to construct an addition containing approximately 200 square feet within the footprint of the existing rear deck. He explained that the proposal required variance relief from the side yard setback, rear yard setback and building coverage. Mr. Anderson also noted that the existing dwelling contained approximately 850 square feet and that the addition would increase the impervious coverage to approximately 39%. He also stated that the rear yard and side yard setback deficiencies were minor and would not be visually perceptible because the adjacent property to the rear was elevated above the subject Property and the adjacent property to the side had similar setbacks.

7. The Applicant's Architect, Lou Moglino, PA, testified that the subject Property was improved with a one-bedroom, single-story bungalow-style dwelling containing 855 square feet. He stated that the dwelling was "L"-shaped with a wood deck located at the rear of the dwelling within the corner of the "L". Mr. Moglino further testified that the deck was raised above the floor of the dwelling because of the grade of the subject Property.

8. Mr. Moglino further testified that the Applicant was proposing to expand the living area of the dwelling by constructing an addition within the footprint of the existing deck. He explained that there would be one (1) step up into the addition from the existing kitchen similar to the existing steps up onto the deck from the existing rear door. Mr. Moglino also stated that some minor excavation would be required for the step up into the addition.

9. Mr. Moglino also stated that the side and rear yard setback of the addition would each be five (5) feet (which, in the case of the side setback, is consistent with the existing side setback and which, in the case of the rear setback, is not as intrusive as the existing rear setback). He testified that the height of the roof would also be the same as the existing dwelling. Mr. Moglino explained that the adjacent properties were all fully-developed. He particularly pointed out that adjacent Lot 13 had similar setbacks but was more intense because the dwelling on Lot 13 was two-stories.

10. Mr. Moglino further testified that the grant of variance relief would not result in any substantial detriment to the public good. He opined that the proposed addition would reduce the noise impact of outdoor entertainment on the deck. Mr. Moglino also stated that the addition would improve privacy for both the Applicant and the neighbors in the surrounding area. He further testified that no adjacent land was available to mitigate or eliminate any of the bulk variances. And, that the building coverage variance was the product of the undersized lot rather than any excessively large existing or proposed building.

11. In response to questions from the Board Engineer, Mr. Moglino testified that the dimensions of the proposed addition were 12' 4.5" x 16' 3.5". He also stated that building coverage was 39.4%. He also agreed to revise the zoning chart on the plan to depict the precise measurements.

12. In response to questions from the Board, Mr. Moglino testified that there was not a basement, but rather a crawl space. He also stated that the existing rear yard setback to the existing dwelling was 3.6 feet and the rear yard setback to the proposed addition would be five (5) feet. The Board questioned the viability of the rear yard for recreational use to which Mr. Moglino responded and explained that the covered front porch would be unchanged and would be available for recreation. He also explained that the adjacent property to the rear fronting Bay Street had a steep slope making the rear unusable which reduced the impact of the rear yard setback on the adjacent property to the rear. He also testified that the aesthetics of the dwelling would be improved.

13. In response to further questions from the Board, the Board Engineer stated that there were no concerns within stormwater because the total lot coverage would not be changed and would be below the permitted maximum 70% coverage.

14. In response to questions from the Board Attorney, Mr. Anderson represented that the existing non-compliant bulk conditions were not created by any previous approval because the subject home was constructed in 1918, prior to any zoning laws. The Board Engineer recommended that the Board also grant relief for the existing non-compliant bulk conditions, which the Applicant agreed to seek such relief.

15. There were no 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 should be granted bulk variance relief pursuant to both N.J.S.A. 40:55D-70c(1) and c(2) in this instance.

The Board finds that the Applicant has proposed construction, 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 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, the 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 finds that the proposed improvements to the subject Property will upgrade the existing residential structure and will be consistent with neighboring development. The Board further finds that the proposed improvements will be aesthetically pleasing and create a desirable visual environment which will be more commensurate with other homes in the neighborhood in terms of size and setbacks. The Board further finds that the subject Property is unique and unusual with respect to its dimensions. Ultimately, a functional and visually desirable dwelling not only benefits the Applicant, but also advances the interests of the entire community. The Board therefore concludes that the goals of planning as enumerated in N.J.S.A. 40:55D-2 have been advanced. The Applicant has therefore satisfied the positive criteria.

The Board also finds that the negative criteria has been satisfied. The proposed improvements requiring variance relief will not cause a detriment to the community in any discernible way. In fact, the Board finds that proposed addition will still be consistent and fit in seamlessly with the prevailing neighborhood residential scheme. The proposal is consistent with the Borough's overall goals and objectives of providing new, safe and visually attractive homes and will advance the general welfare by providing increased privacy and sound attenuation for both the Applicant and the neighbors alike. The Board therefore concludes that there is no substantial detriment to the Zone Plan or the Zoning Ordinance. Granting of the variances sought by the applicant will also not result in any substantial detriment to the public welfare, thus the negative criteria has therefore been satisfied. Furthermore, under the c(2) analysis, the Board concludes that the positive criteria substantially outweighs the negative criteria and that bulk variance relief may be granted pursuant to N.J.S.A. 40:55D-70c(2).

NOW, THEREFORE, BE IT RESOLVED by the Borough of Highlands Land Use Board on this 11th day of April 2024, that the action of the Board taken on March 14, 2024, granting application no. LUB 2024-01 of David Caulfield for bulk variance relief pursuant to N.J.S.A. 40:55D-70c(1) and c(2) is hereby memorialized as follows:

The application is granted subject to the following conditions:

1. All site improvement shall take place in 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.
2. 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.
3. The plan shall be revised to depict an accurate zoning chart subject to review and approval by the Board Engineer.
4. The Applicant shall apply for all necessary Zoning Permit(s).
5. The Applicant shall provide a certificate that taxes are paid to date of approval.
6. Payment of all fees, costs, escrows due or to become due. Any monies are to be paid within twenty (20) days of said request by the Board Secretary.
7. 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.

MOTIONED TO APPROVE: Mr. Kutosh
SECONDED BY: Vice Chair Tierney
AYES: Mayor Broullon, Chief Burton, Mr. Kutosh, Mr. Montecalvo, Councilmember Olszewski, Mr. Zill, Ms. Chang, Vice Chair Tierney, Chair Knox
NAYS: None
ABSTAIN: None
ABSENT: Ms. LaRussa

***OTHER BUSINESS*:**
Consistency Review of Tree Removal Ordinance O-24-04
Mr. Mueller explained the Ordinance and the Board's role.

MOTIONED THAT ORDINANCE IS CONSISTENT: Chair Knox
SECONDED BY: Vice Chair Tierney
AYES: Mayor Broullon, Chief Burton, Mr. Kutosh, Mr. Montecalvo, Councilmember Olszewski, Mr. Zill, Ms. Chang, Vice Chair Tierney, Chair Knox
NAYS: None
ABSTAIN: None
ABSENT: Ms. LaRussa

Master Plan Planning Committees
Mayor Broullon explained the different roles and composition for the Resident, Business, Developer, and Borough Committees. Board discussion ensued on:

- the Borough's past, present, and future vision
- what worked, what didn't, and what can be done better
- what was done at the last Master Plan planning in 2016
- FEMA, DEP, and NFIP requirements
- Structure of the committees, outreach and focus groups for public engagement and information gathering
- Affordable Housing
- Shadowlawn Redevelopment
- Rutgers Study
- Landscape Study

Bill Osborne, Bay Ave., asked about the Bay Avenue Redevelopment situation. Mayor Broullon answered.

ADJOURNMENT
Offered by: Vice Chair Tierney
Seconded: Councilmember Olszewski
All in favor. None Opposed
Adjourned at 7:46pm

I, Nancy Tran, certify that this is a true and correct record of the actions of the Borough of Highlands Land Use Board on April 11, 2024.

_____
Nancy Tran, Land Use Board Secretary