



BOROUGH OF HIGHLANDS LAND USE BOARD REGULAR MEETING

151 Navesink Ave. - Court Room
Thursday, May 08, 2025 at 7:00 PM

AGENDA

Please be advised that the agenda as shown may be subject to change. This meeting is a quasi-judicial proceeding. Any questions or comments must be limited to issues that are relevant to what the board may legally consider in reaching a decision and decorum appropriate to a judicial hearing must be maintained at all times.

CALL TO ORDER: *The chair reserves the right to change the order of the agenda.*

PLEDGE OF ALLEGIANCE

OPEN PUBLIC MEETING STATEMENT: *As per requirement, notice is hereby given that this is a Regular 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

OPEN FOR PUBLIC COMMENTS: *General Questions or Comments not pertaining to Applications*

APPROVAL OF MINUTES

1. April 10, 2025 LUB Meeting Minutes

RESOLUTIONS

- [2.](#) Memorializing Consistency Review of O-25-05 Amendment to Sign Ordinance
- [3.](#) Memorializing Resolution for LUB25-04: Honorable Plant – 123 Bay Ave., B46 L3 – Amendment to Resolution
- [4.](#) Memorializing Resolution for LUB25-03: Nastasi – 19 Gravelly Point, B100 L26.19 – Variance, revised approval

HEARINGS ON NEW BUSINESS

- [5.](#) LUB2022-04: Kirsh Kraft - 9 Fifth St., B57 Ls 8 & 9 - Extension Request
- [6.](#) Consistency Review of O-25-010 Amending Steep Slopes Ordinance
- [7.](#) LUB25-01: Ayers – 19 Bay Ave., B38.01 L13 – Use Variance

EXECUTIVE SESSION

ADJOURNMENT

Board Policy: • All meetings shall adjourn no later than 10:00 P.M. unless a majority of the quorum present at said hour vote to continue the meeting to a later hour. • No new hearing shall commence after 9:15 P.M. unless the Chairperson shall rule otherwise. • The Chair may limit repetitive comments or irrelevant testimony and may limit the time or number of questions or comments from any one citizen to ensure an orderly meeting and allow adequate time for members of the public to be heard.

Next LUB Meeting is Thursday, June 12, 2025.



BOROUGH OF HIGHLANDS
COUNTY OF MONMOUTH

LAND USE BOARD RESOLUTION 2025-12

MEMORIALIZATION OF CONSISTENCY DETERMINATION FOR ORDINANCE NO. O-25-05 AMENDING CHAPTER 10 (BUILDINGS AND HOUSING), SECTION 10-7 (SIGNS AND OUTDOOR DISPLAY STRUCTURES) AND CHAPTER 21 (ZONING AND LAND USE REGULATIONS), ARTICLE XXII (SIGNS) OF THE BOROUGH CODE OF THE BOROUGH OF HIGHLANDS

Decided: April 10, 2025
Memorialized: May 8, 2025

MATTER OF CONSISTENCY DETERMINATION FOR ORDINANCE NO. O-25-05

WHEREAS, under the Municipal Land Use Law pursuant to N.J.S.A. 40:55D-26a, prior to the adoption of a Development Regulation, revision or amendment thereto, the Land Use Board, shall make and transmit to the Governing Body, within 35 days after referral, a report including identification of any provisions of the proposed development regulation, revision or amendment which are inconsistent with the Master Plan and Recommendations concerning these inconsistencies and any other matters as the Board deems appropriate; and

WHEREAS, the Borough of Highlands Governing Body introduced Ordinance No. O-25-05 entitled Ordinance “Amending Chapter 10 (Buildings and Housing), Section 10-7 (Signs and Outdoor Display Structures) and Chapter 21 (Zoning and Land Use Regulations), Article XXII (Signs) of the Borough Code of the Borough of Highlands”; and

WHEREAS, the Mayor and Council of the Borough of Highlands referred this matter to the Land Use Board under the Municipal Land Use Law pursuant to N.J.S.A. 40:55D-26a; and

WHEREAS, the Land Use Board has considered this matter at a duly-noticed, in-person, public meeting conducted on April 10, 2025; and

NOW, THEREFORE, the Highlands Land Use Board having reviewed Ordinance No. O-25-05 makes the following findings of fact and conclusions of law in regard to the proposed amendments to the Code of the Borough of Highlands in connection therewith:

1. Ordinance No. O-25-05 ensures consistency with the provisions and requirements for signage placement, design, and standards and makes minor changes to update

the standards regarding signs within the Borough and, more specifically, clearly incorporates Attachment 2 – Sign Schedule of Chapter 21 (Zoning and Land Use Regulations) of the Borough Code into Section 21-103 (Specific Standards by Zone District) of the Borough Code, amongst other changes.

2. The Board’s Professionals and Mayor Broullon provided an overview of the Ordinance and recommended that it is substantially consistent with the Master Plan.
3. The Land Use Board finds that the adoption of Ordinance No. O-25-05 is substantially consistent with the comprehensive goals set forth in the Master Plan.
4. The Land Use Board finds that adoption of Ordinance No. O-25-05 is substantially consistent with the comprehensive goals, land use goals, and economic development goals as set forth in the Master Plan or is designed to effectuate such plan elements for the reasons expressed on the record as well as the reasons expressed by its Professionals and Mayor Broullon.

NOW, THEREFORE, BE IT RESOLVED, BY the Highlands Land Use Board that Ordinance No. O-25-05 entitled “Amending Chapter 10 (Buildings and Housing), Section 10-7 (Signs and Outdoor Display Structures) and Chapter 21 (Zoning and Land Use Regulations), Article XXII (Signs) of the Borough Code of the Borough of Highlands” has been determined by the Land Use Board to be substantially consistent with the comprehensive goals, land use goals and economic development goals in the Master Plan or as designed to effectuate such plan elements for the Borough of Highlands.

BE IT FURTHER RESOLVED that the Land Use Board Secretary is hereby directed to transmit a copy of this Resolution to the Mayor and Borough Council. This Resolution shall serve as the report to the governing body pursuant to N.J.S.A. 40:55D-26a of the Municipal Land Use Law.

BE IT FURTHER RESOLVED that this Resolution shall take effect immediately.

ON MOTION OF:
SECONDED BY:
ROLL CALL:
YES:
NO:
RECUSED:
INELIGIBLE:
ABSENT:
DATE:

I hereby certify this to be a true and accurate copy of the Resolution adopted by the Highlands Land Use Board, Monmouth County, New Jersey at a public meeting held on May 8, 2025.

Nancy Tran, Secretary
Borough of Highlands Land Use Board



BOROUGH OF HIGHLANDS
COUNTY OF MONMOUTH

LAND USE BOARD RESOLUTION 2025-13
MEMORIALIZATION OF AMENDED MINOR SITE PLAN APPROVAL

IN THE MATTER OF THE HONORABLE PLANT, LLC
APPLICATION NO. LUB25-04

Approved: April 10, 2025
Memorialized: May 8, 2025

WHEREAS, an application for amended minor site plan approval for a conditional use with ancillary variance relief has been made to the Borough of Highlands Land Use Board (hereinafter referred to as the "Board") by The Honorable Plant, LLC (hereinafter the "Applicant") on lands known and designated as Block 46, Lot 3, as depicted on the Tax Map of the Borough of Highlands (hereinafter "Borough"), and more commonly known as 123 Bay Avenue in the CBD (Central Business District) Zone and CBD Redevelopment Zone (hereinafter the subject "Property"); and

WHEREAS, a public hearing was held before the Board on April 10, 2025, with regard to this application; and

WHEREAS, the Board has heard testimony and/or comments from the Applicant's Attorney, 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 18,000 s.f. and is improved with a two-story 3,980 square feet footprint, mixed-use building containing vacant retail space on the first floor and

residential apartments on the second floor. The subject Property is located in the Central Business District (CBD) Zone and the CBD Redevelopment Zone of the Borough with dual frontage along Bay Avenue (County Route 8) and South Second Street.

2. The Applicant is seeking amended minor site plan approval to have Sunday hours of operation between 8 a.m. and 9 p.m. in accordance with Section 4-18.7 of the Borough Code (Hours of Operation for a Licensed Cannabis Retailer).

3. Counsel for the Applicant, Megan Doyle, Esq. stated that the Applicant previously applied for and received minor site plan approval for a conditional use with ancillary variance relief to convert the first floor of the mixed-use building into a cannabis retail store while maintaining the existing second floor residential apartment space, which request was approved by the Land Use Board on December 20, 2022 and memorialized in Resolution No. LUB-2023-08, dated February 9, 2023.

4. Resolution No. LUB-2023-08 contained, as a condition of approval, a limitation on the Sunday hours of operation to the hours between 12 p.m. and 5 p.m.

5. The Board Attorney stated that in the initial application and during the December 20, 2022 hearing date, the Applicant had agreed to limit the hours of operation on Sundays to the hours between 12 p.m. and 5p.m. because there was a church located adjacent to the subject Property to the west, with Sunday religious meetings/prayer services.

6. The Board stated that the church located adjacent to the subject Property is no longer in operation and, thus, there are no longer Sunday meetings and/or religious services.

7. At the time of the initial application and during the December 20, 2022 hearing date, Section 4-18.7 of the Borough Code (Hours of Operation for a Licensed Cannabis Retailer) limited

Sunday hours of operation for licensed cannabis retailers to between the hours of 10 a.m. and 5 p.m.

8. On February 5, 2025, the Borough adopted Ordinance No. O-25-01, which amended Section 4-18.7 of the Code to provide for the following hours of operation for licensed cannabis retailers: 8:00 a.m. to 9:00 p.m. Sunday through Wednesday and 8:00 a.m. to 10:00 p.m. Thursday through Saturday.

9. Ms. Doyle detailed that Applicant is requesting to amend Resolution No. LUB-2023-08, dated February 9, 2023, to allow the Applicant to operate Sunday hours to the maximum extent permitted by Section 4-18.7 of the Borough Code, between the hours of 8 a.m. and 9 p.m.

10. 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's request for amended minor site plan approval pursuant to N.J.S.A. 40:55D-46.1 with ancillary variance relief pursuant to N.J.S.A. 40:55D-70c(2) and conditional use approval pursuant to N.J.S.A. 40:55D-67 should be granted in this instance.

The Applicant in the instant matter is not seeking any additional relief and is, in fact, requesting to operate Sunday hours to the maximum extent permitted by Section 4-18.7 of the Borough Code, between the hours of 8 a.m. and 9 p.m. The Applicant had previously agreed to

restrict Sunday hours of operation to the hours between 12 p.m. and 5 p.m., because a religious organization was located adjacent to the subject Property, which restriction was memorialized in Resolution No. LUB-2023-08, dated February 9, 2023, as a condition of approval.

The religious organization is no longer in operation and, thus, limited Sunday hours of operation are no longer needed to avoid potentially conflicting with Sunday religious services and/or meetings. Additionally, on February 5, 2025, the Borough adopted Ordinance 25-01, which amended Section 4-18.7 of the Borough Code to provide for the following hours of operation for licensed cannabis retailers: 8:00 a.m. to 9:00 p.m. Sunday through Wednesday and 8:00 a.m. to 10:00 p.m. Thursday through Saturday.

In view of the above, this Board finds that it is appropriate to grant amended minor site plan approval pursuant to N.J.S.A. 40:55D-46.1 with ancillary variance relief pursuant to N.J.S.A. 40:55D-70c(2) and conditional use approval pursuant to N.J.S.A. 40:55D-67.

NOW, THEREFORE, BE IT RESOLVED by the Land Use Board of the Borough of Highlands on this 8th day of May 2023, that the action of the Land Use Board taken on April 10, 2025, granting Application No. LUB 2022-08 and LUB-2025-04, for amended minor site plan approval pursuant to N.J.S.A. 40:55D-46.1, with ancillary variance relief pursuant to N.J.S.A. 40:55D-70c(2) and conditional use approval pursuant to N.J.S.A. 40:55D-67 is hereby memorialized as follows:

The application is granted subject to the following conditions:

1. All site improvement shall take place in the 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 conditions of the Land Use Board Resolution, dated February 9, 2023 continue to be in effect and are incorporated herein, except to the extent modified by this Resolution.

4. Any future modifications to this approved plan must be submitted to this Board for approval.
5. The Applicant shall provide a certificate that taxes are paid to date of approval.
6. 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.
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.

Robert Knox, Chairman
Borough of Highlands Land Use Board

ON MOTION OF:
SECONDED BY:
ROLL CALL:
YES:
NO:
RECUSED: Ms. Chang
INELIGIBLE:
ABSENT:
DATED: May 8, 2025

I hereby certify this to be a true and accurate copy of the Resolution adopted by the Highlands Land Use Board, Monmouth County, New Jersey at a public meeting held on May 8, 2025.

Nancy Tran, Secretary
Borough of Highlands Land Use Board

BOROUGH OF HIGHLANDS PLANNING BOARD
EXHIBITS
Case No. LUB25-04: The Honorable Plant, LLC
Amended Minor Site Plan Approval
April 10, 2025

Initial Minor Site Plan Approval

- A-1 Land Use Board Application, dated 10/21/2022 (7 pages)
- A-2 Architectural & Site Plans prepared by Rathunas LLC, dated 10/21/2022 (4 pages)
- A-3 Site Plans prepared by Rathunas LLC dated, 10/21/2022 (1 page)
- A-4 Zoning Permit Application dated, 10/10/2022 (1 page)
- A-5 Letter from Zoning Official, dated 10/19/2022 (1 page)
- A-6 Resolution 22-216 of the Borough of Highlands, dated 10/5/2022 (1 page)
- A-7 Planning Statement prepared by Beacon Planning and Consulting Services, LLC, dated 10/27/2022 (3 pages)
- A-8 Business Plan/Operational report/narrative, undated (15 pages)
- A-9 Architectural & Site Plans prepared by Rathunas LLC, dated 11/23/2022 (7 pages)
- A-10 Color Rendering Exhibit prepared by Andrew R. Stockton, P.E., P.L.S., of Eastern Civil Engineering, LLC, dated 11/29/2022 (1 page)
- B-1 Board Engineer Completeness Letter by Edward Herrman, dated 11/2/2022 (4 pages)
- B-2 Board Engineer Review Letter by Edward Herrman, dated 11/16/2022 (13 pages)
- B-3 Board Engineer Amended Review Letter by Edward Herrman, dated 12/16/2022 (15 pages)

Amended Minor Site Plan Approval

- A-11 Land Use Board Application, dated March 5, 2025 (5 pages)



BOROUGH OF HIGHLANDS
COUNTY OF MONMOUTH

LAND USE BOARD RESOLUTION 2025-14

MEMORIALIZATION OF BULK VARIANCE RELIEF

IN THE MATTER OF JOHN AND SHARI NASTASI
APPLICATION NO. LUB2025-03

Approved: April 10, 2025
Memorialized: May 8, 2025

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 John and Shari Nastasi (hereinafter referred to as the “Applicants”) on lands known and designated as Block 100, Lot 26.19 (C00011), as depicted on the Tax Map of the Borough of Highlands (hereinafter “Borough”), and more commonly known as 19 Gravelly Point Road, Highlands, New Jersey, in the Bungalow Colonies area of the R-2.03 Single-Family Residential (R-2.03) Zone District (hereinafter “Property”); and

WHEREAS, a live public hearing was held before the Board on April 10, 2025, 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 is an existing undersized lot containing 2,758.25 square feet (0.06 acres) with 50.15 feet of frontage along Gravelly Point Road within the Bungalow Colonies area of the R-2.03 Single-Family Residential (R-2.03) Zone District. The subject Property is located within the AE Flood Hazard Area.
2. The subject Property is currently improved with an existing, elevated two-story frame dwelling with existing garage under parking, with an elevated addition with garage under parking, decking, and stairs.

3. The Applicants previously applied for and, on August 8, 2024, received approval from the Board, which approval was memorialized on September 12, 2024 in Resolution No. 2024-17, to construct a three-story dwelling in place of the existing elevated two-story frame dwelling. No variance relief was sought for a proposed second-floor deck and the approved plans did not reflect a second-floor deck.

4. Resolution No. 2024-17 granted the Applicants bulk variance relief for the location of certain accessory structures, lot size, lot depth, and rear yard setbacks, along with height variance relief for the proposed single-family dwelling.

5. The Applicants subsequently applied for a Zoning Permit to construct the proposed dwelling on the subject Property, which submitted plans proposed a second-floor deck.

6. The Borough Zoning Official, Courtney Lopez, issued a Denial of Zoning Permit, dated February 10, 2025, which denied the Applicant's request for a zoning permit for the following reasons:

- a. The location of the front portion of the proposed deck is not equivalent to the prior location of the former deck. The proposed deck is much larger, approximately 230% longer than the former deck. The proposed deck extends the entire front of the existing and proposed addition and further along the front of the lot.
- b. The proposed building is not consistent with the approved plan set. The right side of the proposed dwelling is different and larger. The image plan does not match the first or second floor plans.
- c. The first-floor plan, shown within the approved plans, indicates a deck above the garage addition. The plan submitted to the zoning office is not consistent with the approved plan.
- d. Dimensions are needed on the plan submitted to the zoning office to confirm that the proposed building and deck are consistent with the approved plan and meet the setback requirements.
- e. The plan submitted to the board used the existing foundation for the new house. The plans submitted to zoning have a larger footprint, but the dimensions are not clear enough to determine how close the proposed building is to the property lines.

7. The Applicants are now seeking variance relief from the requirements of §21-86.A.4.b(2)(a) to construct a second-floor deck along the frontage of the proposed dwelling.

8. The Applicant's Architect, John Nastasi, AIA, was sworn in and testified about the application.
9. Mr. Nastasi identified the subject Property as Block 100, Lot 26.19, with the address of 19 Gravelly Point Road, Highlands, New Jersey, and located within the Bungalow Colonies area of the R-2.03 Single-Family Residential (R-2.03) Zone District.
10. Mr. Nastasi testified that the Applicants were here seeking approval to construct a second-floor deck because the previously approved plans (in Resolution No. 2024-17), did not include a proposed second floor deck as the Applicants had desired.
11. Mr. Nastasi testified that the existing, but since removed, second floor deck was approximately 9 ft x 17 ft in size, whereas the proposed deck extends the full width of the house and around a portion of the side, measuring 9 ft x 39.5 ft., which deck would be approximately 230% larger than the former deck (since removed) as determined by the existing survey.
12. Mr. Nastasi provided additional testimony that the proposed deck would be more functional and practical than what existed previously.
13. Mr. Nastasi provided additional testimony that the deck could not be located on the rear of the home, and other than seeking relief to construct the deck, none of what is proposed is more than what was previously approved and is permitted.
14. In response to questions from the Board Engineer, Mr. Nastasi confirmed that the submitted plans shifted the proposed dwelling closer to the Borough right of way, but also reduced the footprint of the proposed dwelling.
15. Mr. Nastasi confirmed the need for variance relief from §21-86.A.4.b(2)(a) of the Borough Code, which relates to certain properties located in the Bungalow Colonies and provides, in pertinent part, that "decks attached to the front of the dwellings situated in Block 100, Lots 26.01-26.76 and Block 69, Lots 15.01-15.28, . . . may extend to locations equivalent to those which existed prior to elevation or reconstruction as determined by prior property surveys conducted by a licensed surveyor."
16. Mr. Nastasi opined that the proposed second-floor deck would be similar to the decks of other houses on the street which had been constructed, renovated and/or lifted. He, therefore, believed that the proposed deck and proposed dwelling (as a whole) would conform with the

surrounding area. He also stated that the proposal would not impair the zone or the public good.

17. 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 Applicants 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 Applicants have proposed constructing a second-floor deck, 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 Applicants have satisfied the positive criteria. The Board finds that the proposed second-floor deck will upgrade the proposed residential structure and will be consistent with neighboring development. The Board further finds that the proposed deck will be aesthetically pleasing and create a desirable visual environment which will be commensurate with other homes in the neighborhood. The Board further finds that the subject Property is unique and unusual with respect to its dimensions. Ultimately, the Board finds that the grant of variance relief will result in a visually desirable dwelling which will not only benefit the Applicant but will also advance 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 Applicants have therefore satisfied the positive criteria.

The Board also finds that the negative criteria has been satisfied. The proposed deck requiring variance relief will not cause a detriment to the community in any discernible way. In fact, the Board finds that proposed deck 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 for both the Applicants and the neighbors alike. Granting of the variance sought by the Applicants will also not result in any substantial detriment to the public welfare or impair the purpose or intent of the Zone Plan or Zoning Ordinance. The Board therefore concludes that the negative criteria has therefore been satisfied pursuant to N.J.S.A. 40:55D-70c(2).

It bears mentioning that the Applicants previously applied for and received approval to construct a three-story residential dwelling in place of the existing two-story dwelling, which approval was memorialized in Resolution No. 2024-17 and granted the Applicants bulk variance

relief for the location of certain accessory structures, lot size, lot depth, and rear yard setbacks, along with height variance relief for a single-family dwelling. At that time, the Applicants did not apply for a variance with respect to the second-floor deck and there was no consideration of the deck or any construction of the same before the Board at that time. Accordingly, the within application and resolution relate to Resolution No. 2024-17 but do not amend the same.

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 8th day of May 2025, that the action of the Board taken on April 10, 2025, granting application no. LUB 2024-04 of John and Shari Nastasi for bulk variance relief pursuant to N.J.S.A. 40:55D-70c(1) and “c(2)” and height variance relief pursuant to N.J.S.A. 40:55D-70d(6) 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 Applicants shall comply with all recommendations contained in the Reports of the Board’s Professionals.
3. The Applicants shall apply for all necessary Zoning Permit(s).
4. Any ambiguities regarding the interpretation of this Resolution related to major site plan modifications shall be resolved by the Land Use Board upon due notice to the public.
5. The Applicants shall provide a certificate that taxes are paid to date of approval.
6. This approval is subject to the Applicants’ continuing 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. Prior to the issuance of building permits, the Applicant shall be responsible for obtaining any other approvals or permits from other governmental agencies, as may be required by law, including all applicable Federal, State, County, and Municipal regulations.
8. 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 Applicants' expense and to send a certified copy of this Resolution to the Applicants and to the Borough Clerk, Engineer, Attorney and Tax Assessor, and shall make same available to all other interested parties.

Robert Knox, Chairman
Borough of Highlands Land Use Board

ON MOTION OF:
SECONDED BY:
ROLL CALL:
YES:
NO:
ABSTAINED:
INELIGIBLE:
ABSENT:
DATED:

I hereby certify this to be a true and accurate copy of the Resolution adopted by the Borough of Highlands Land Use Board, Monmouth County, New Jersey, at a public meeting held on May 8, 2025.

Nancy Tran, Secretary
Borough of Highlands Land Use
Board

BOROUGH OF HIGHLANDS LAND USE BOARD
Case No. LUB24-05/Nastasi
Bulk Variance Relief
April 10, 2025

EXHIBITS

A-1 Images of Site (3 sheets)

INTEROFFICE REPORTS

B-1 Board Engineer's Completeness Review, dated July 11, 2024 (Completeness Review No. 1)

B-2 Board Engineer's Completeness Review, dated April 1, 2025 (Completeness Review No. 2)¹

¹ Identified as Completeness Review No. 1 on the document, however.



April 29, 2025

Nancy Tran
Land Use Board Secretary
Borough of Highlands Land Use Board
151 Navesink Avenue
Highlands, New Jersey 07732

Re: **Applicant: Kirsh Kraft, LLC**
 Nine Fifth Street
 Block 57, Lots 8 & 9
 Borough of Highlands, Monmouth County, New Jersey
 Request for extension of Minor Subdivision Time to File Deed

Dear Ms. Tran,

Kirsh Kraft, LLC is the applicant for the referenced matter. All Things Planning & Development is managing the resolution compliance process on behalf of the applicant. We are in receipt of correspondence from Roberts Engineering dated April 11, 2025. The applicant submitted response documents April 16 and is awaiting the engineering review.

As provided for in N.J.S.A. 40:55D-47.f & g, the applicant is requesting an extension to file the requisite deeds with the County Clerk's office. This time frame coincides with the delay and amount of time necessary to revise the necessary deeds and descriptions as provided for in the resolution of approval memorialized on August 8, 2024. I will proceed with providing revised descriptions/exhibits to respond to comments from the Board Engineer and will revise the deeds to reflect and extension grant on May 8, memorialized on June 12, 2025.

The applicant believes we have addressed all comments to date. Of course, we will address any comments in the Board engineer's review letters. Thank you for your cooperation. Please contact me with any questions or concerns.

Very truly yours,

ALL THINGS PLANNING & DEVELOPMENT

John E. Taikina

John E. Taikina, PP, AICP
Managing Member

- c. Trevor Kirsh, Applicant
Walter Hopkin, PE, WJH Engineering, Applicant's Engineer
Henry Wolff, III, Applicant's Attorney
Carmela Roberts, PE, CME, CPWM, Roberts Engineering
Dustin Glass, Esq., Semeraro & Fahrney



BOROUGH OF HIGHLANDS
COUNTY OF MONMOUTH

ORDINANCE O-25-10

AMENDING CHAPTER 21 (ZONING AND LAND USE REGULATIONS), PART I (GENERAL PROVISIONS), ARTICLE II (DEFINITIONS), SECTION 21-8 (DEFINITIONS) AND CHAPTER 21 (ZONING AND LAND USE REGULATIONS), PART IV (ZONING), ARTICLE XIV (ESTABLISHMENT OF DISTRICTS), SECTION 21-84B (STEEP SLOPES AND SLUMP BLOCKS) OF THE BOROUGH CODE OF THE BOROUGH OF HIGHLANDS

WHEREAS, the Borough of Highlands has determined that it is in the best interest of the Borough to update certain sections of the Borough Code as it pertains to the definition and development standards that pertain to steep slopes.

NOW, THEREFORE, BE IT ORDAINED by the governing body of the Borough of Highlands as follows:

SECTION I. Borough Code Chapter 21 (Zoning and Land Use Regulations), Part I (General Provisions), Article II (Definitions), Section 21-8 (Definitions) is hereby amended to change the definition of “Steep Slopes” to read as follows: (All additions are shown in **bold italics with underlines**. The deletions are shown as ~~**strikeovers in bold italics**~~.):

STEEP SLOPES

Slopes greater than ~~**twenty (20%)**~~ **fifteen (15%)** percent, to be developed in accordance with subsection ~~**21-65.21**~~ **21-84B**.

SECTION II. Borough Code Chapter 21 (Zoning and Land Use Regulations), Part IV (Zoning), Article XIV (Establishment of Districts), Section 21-84B (Steep Slopes and Slump Blocks) is hereby amended as follows: (All additions are shown in **bold italics with underlines**. The deletions are shown as ~~**strikeovers in bold italics**~~.):

- A. – C. – No change.
- D. Application review and standards of approval.
 - 1. No change.
 - 2. The Borough Engineer shall thereafter approve only those applications where the proposed work or disturbance will:
 - a. - k. No change.
 - I. Where tree removal is proposed in a manner that does not compromise the slope, leave a remaining tree stump between 3 to 4 feet above grade in order to maintain the existing root system and prevent future slope movement.**
 - 3. – 5. No change.
- E. Lot size, development density, lot coverage and disturbance. To meet the purposes, goals and standards set forth in this section, in areas of slopes greater than 15%, the applicable provisions of this chapter relating to minimum lot sizes and density of development, and maximum percentage of lot coverage, shall be modified, and limitations including maximum impervious surfaces and maximum lot disturbance shall be added as follows:
 - 1. – 2. No change.

3. ~~The maximum impervious surface area permitted in slope areas shall be determined by multiplying the total land area in various slope categories by the following percentages and totaling the results:~~

Slopes	Percentage
30% or greater	10%
20% but less than 30%	15%
15% but less than 20%	25%
Less than 15%	35%

4. The maximum lot disturbance shall be no greater than 130% of the maximum ~~impervious surface~~ lot coverage permitted for the lot.

5. – 7. No change.

F. – J. No change.

SECTION III. SEVERABILITY.

If any section, subsection, sentence clause or phrase of the ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the remaining portions of the ordinance, which shall otherwise remain in full force and effect.

SECTION IV. REPEALER.

All ordinances or parts of ordinances inconsistent herewith are hereby repealed to the extent of such inconsistency.

SECTION V: EFFECTIVE DATE.

This Ordinance shall take effect after final passage as provided by law.

First Reading and Set Hearing Date for O-25-10:

	INTRODUCED	SECOND	AYE	NAY	ABSTAIN	ABSENT
CERVANTES						
CHELAK						
MELNYK						
OLSZEWSKI						
BROULLON						

This is a Certified True copy of the Original Ordinance on file in the Municipal Clerk’s Office.

DATE OF VOTE: May 7, 2025

Nancy Tran, Municipal Clerk
Borough of Highlands

Public Hearing for O-25-10:

	INTRODUCED	SECOND	AYE	NAY	ABSTAIN	ABSENT
CERVANTES						
CHELAK						
MELNYK						
OLSZEWSKI						
BROULLON						

This is a Certified True copy of the Original Ordinance on file in the Municipal Clerk’s Office.

DATE OF VOTE: May 21, 2025

Carolyn Broullon, Mayor

Nancy Tran, Municipal Clerk
Borough of Highlands



Borough of Highlands
151 Navesink Ave.
Highlands, NJ 07732
(732) 872-1224
www.highlandsnj.gov

LAND USE BOARD APPLICATION

FOR OFFICIAL USE

Date Rec'd: 2/19/2025Application #: LB 25-01Fee: \$500.00Escrow: 1,000.00Escrow Acct# T-03-56-875-000-206

1. APPLICANT

Name: Tim AyersAddress: 19 Bay AvenueCity: Highlands State: NJ Zip: 07732

Phone: _____

Email: _____

Relation to property: Owner

2. OWNER

Name: Same as Applicant

Address: _____

City: _____ State: _____ Zip: _____

Phone: _____

Email: _____

3. TYPE OF APPLICATION (Check all that apply)

- ☐ Minor Subdivision
- ☐ Major Subdivision – Preliminary
- ☐ Major Subdivision – Final
- ☐ Minor Site Plan
- ☐ Major Site Plan – Preliminary
- ☐ Major Site Plan – Final
- ☐ Variance
- ☒ Use Variance

- ☐ Appeal – Zoning Denial date _____
- ☐ Appeal – Land Use Decision date _____
- ☐ Informal Concept Plan Review
- ☐ Extension of Approval
- ☐ Revision/Resubmission of Prior Application
- ☐ Other _____

4. PROPERTY INFORMATION

Block 38.01 Lot(s) 13 Address: 19 Bay AvenueLot size .07 acres # of Existing Lots 1 # of Proposed Lots _____Zone B-2 Are there existing Deed Restrictions or Easements? ☒ No ☐ Yes – Please attach copiesHas the property been subdivided? ☒ No ☐ Yes If yes, when? _____

Attach copies of approved map or approved resolution

Property taxes paid through current

Sewer paid through _____

5. ATTORNEY (A corporation, LLC, Limited Partnership, or S-Corp must be represented by a NJ attorney)

Name: Daniel J. O'Hern Jr.Address: 195 East Bergen Place Red Bank NJ 07701Phone: 732-219-7711Email: dohern@byrnesohern.com



Borough of Highlands
151 Navesink Ave.
Highlands, NJ 07732
(732) 872-1224
www.highlandsnj.gov

6. APPLICANT'S OTHER PROFESSIONAL(S) – Engineer, Planner, Architect, etc.

Name: TBD
Address: _____

Phone: _____
Email: _____

Name: _____
Address: _____

Phone: _____
Email: _____

7. LAND USE

A. PROPERTY HISTORY –Describe in detail, nature of prior use(s) on the site, start date of such use, any prior Land Use Board applications for this site (attach copy of resolution, if applicable), history of current ownership, etc.

The property is a 1200 sq. ft two story multi use commercial building. The 1st Floor is used as office space. The 2nd Floor is one room with a kitchenette and one bathroom. The 2nd Floor has a private entrance via an exterior stairwell.

B. PROPOSED PLAN –Describe in detail, proposed use for property, including, but not limited to: 1) portion to be subdivided; 2) sell lot only; 3) construct house(s) for sale; 4) how trash will be disposed; 5) landscaping; 6) hours of operation; 7) type of goods/services; 8) fire lane. Attach additional sheets if necessary.

C. ADDITIONAL INFORMATION:

		Existing	Proposed
Residential:	How many dwelling units?	0	1
	How many bedrooms in each unit?		1
	How many on-site parking spaces?	5	5
Commercial:	How many commercial uses on site?	1	1
	How many on-site parking spaces?	5	5



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151 Navesink Ave.
Highlands, NJ 07732
(732) 872-1224
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8. VARIANCE REQUESTS Complete section(s) related to the relief being requested.

	Req'd	Exist.	Prop'd
Minimum Lot Requirements			
Lot Area			
Frontage			
Lot Depth			
Minimum Yard Requirements			
Front Yard Setback			
2 nd Front Yard Setback			
Rear Yard Setback			
Side Yard Setback, right			
Side Yard Setback, left			
Building Height			

	Req'd	Exist.	Prop'd
Accessory Structures			
Fence/Wall Height			
Garage/Shed Height			
Garage/Shed Area			
Pool Setback			
Parking Requirements			
On-site Parking Spaces			
Other (please add)			

9. OTHER RELIEF REQUESTED Please specify relief(s) and explain below.

The applicant seeks use variance relief
to utilize the 2nd Floor space as
a short term studio apartment
rental.




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Highlands, NJ 07732
(732) 872-1224
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10. NOTARIZED SIGNATURE OF APPLICANT

I certify that the foregoing statements and the materials submitted are true. I further certify that I am the individual Applicant, or that I am an Officer of the Applicant authorized to sign the application for the business organization. Additionally, I certify that the survey or plans submitted with this application shows and discloses the premises in its entirety, and I further certify that no buildings, fences, or other facilities have been constructed, installed, or otherwise located on the premises after the date of the survey with the exception of the structures shown.

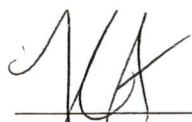
SWORN & SUBSCRIBED to before me this
29 day of January 2025 (year)
Jennifer L Cook (notary)
JENNIFER L COOK
Notary Public, State of New Jersey
Comm. # 2429035
My Commission Expires 01/22/2028


Signature
1/29/2025
Date
Tim Ayers
Print Full Name

11. NOTARIZED CONSENT OF OWNER

I certify that I am the Owner of the property which is the subject of this application, hereby consent to the making of this application and approval of the plans submitted herewith. I further consent to the inspection of this property in connection with this application as deemed necessary by the municipal agency (if owned by a corporation, a resolution must be attached authorizing the application and officer signature).

SWORN & SUBSCRIBED to before me this
29 day of January 2025 (year)
Jennifer L Cook (notary)
JENNIFER L COOK
Notary Public, State of New Jersey
Comm. # 2429035
My Commission Expires 01/22/2028


Signature
1/29/2025
Date
Tim Ayers
Print Full Name

12A. DISCLOSURE STATEMENT Circle all that apply.

Pursuant to N.J.S.A. 40:55D-48.1 & 48.2, please answer the following questions:

Is this application to subdivide a parcel of land into six (6) or more lots?

Yes No

Is this application to construct a multiple dwelling of 25 or more units?

Yes No

Is this an application for approval of a site(s) for non-residential purposes?

Yes No

Is this Applicant a corporation?

Yes No

Is the Applicant a limited liability corporation?

Yes No

Is the Applicant a partnership?

Yes No

If you circled YES to any of the above, please complete the following Ownership Discloser Statement (use additional sheets if necessary).



LAW OFFICES OF
BYRNES, O'HERN & HEUGLE

February 6, 2025

VIA PRIORITY MAIL

Ms. Nancy Tran
Land Use Board Secretary
Borough of Highlands
151 Navesink Avenue
Highlands, NJ 07732

Re: Tim Ayers, 19 Bay Avenue, Block 38.01, Lot 13

Dear Ms. Tran:

My office represents the applicant Tim Ayers regarding the referenced property. Enclosed is an original and one copy of Mr. Ayer's completed application to the Land Use Board. Also enclosed are two checks payable to the Borough of Highlands; one in the amount of \$500 for the application fee; and the other in the amount of \$1,000 for the escrow fee.

Please let me know if you have any questions or require any additional information regarding this application.

Very truly yours,

DANIEL J. O'HERN, JR.
dohern@byrnesohern.com

w/enclosures

SETBACKS AS PER FILED MAP AND/OR DEED RESTRICTIONS
MAY NOT REFLECT CURRENT ZONING CONDITIONS,
IF APPLICABLE.

THIS SURVEY IS NOT VALID WITHOUT A
RAISED SEAL OR FOR USE AS A SURVEY
AFFIDAVIT.

NOTES:
PROPERTY CORNERS TO BE SET
UNLESS A WRITTEN WAIVER AND
DIRECTION NOT TO SET CORNER
MARKERS HAS BEEN OBTAINED
FROM THE ULTIMATE USER
PURSUANT TO P.L.2003,c14
(C45:8-36.3) AND
N.J.A.C. 13:40-5.1(D)."

THIS SURVEY IS SUBJECT TO
CONDITIONS WHICH AN ACCURATE
TITLE SEARCH MIGHT DISCLOSE.

NO LIABILITY IS ASSUMED
TO DETERMINE IF ANY
PORTION OF THIS PROPERTY
IS LOCATED WITHIN A FLOOD
HAZARD ZONE UNLESS AN
ELEVATION CERTIFICATE
HAS BEEN ISSUED.



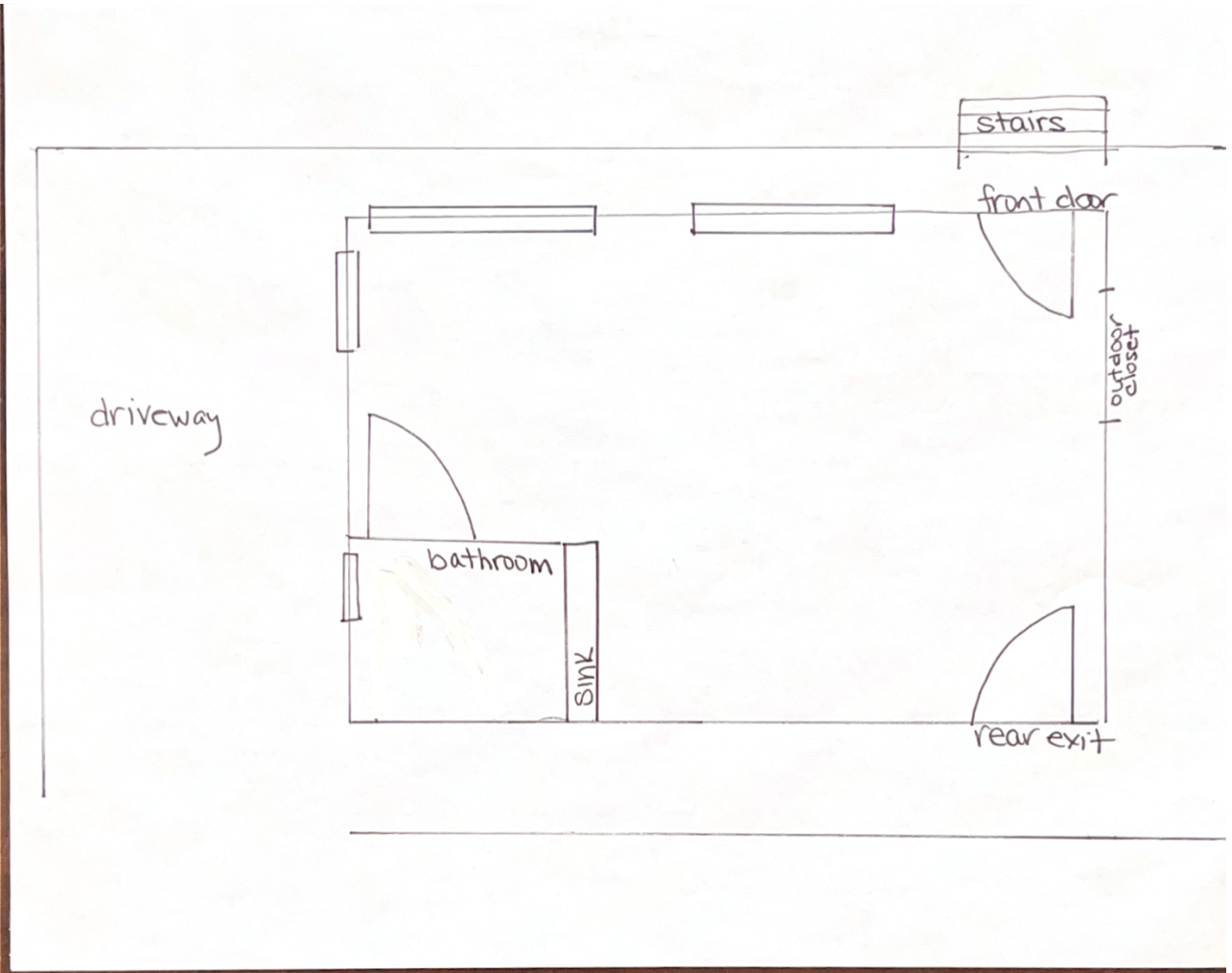
 - REBAR TO BE SET
 - NAIL TO BE SET

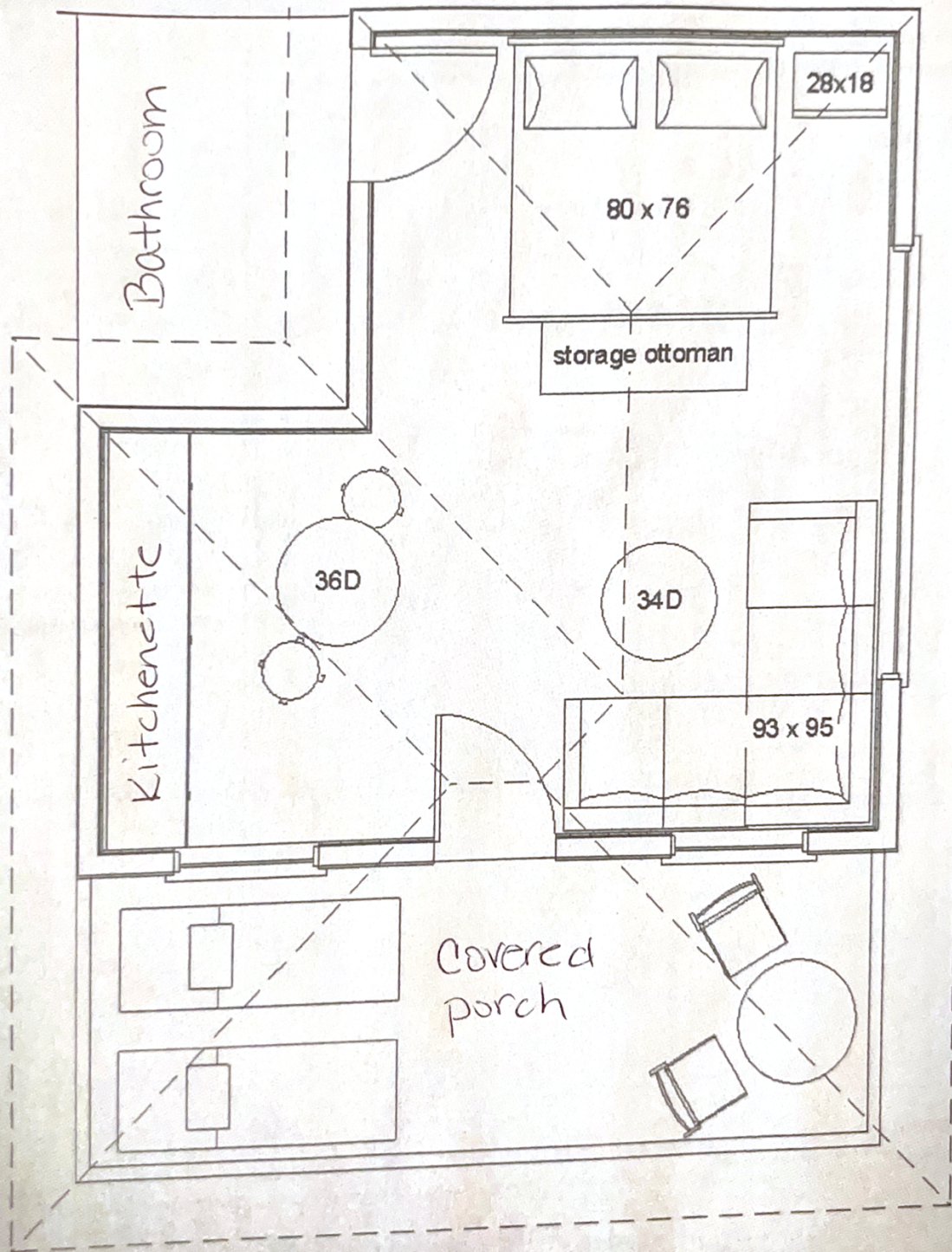
DEED REFERENCE(S):
BOOK 8685-7750
BOOK 5274-928 (LOT 16)
BOOK 5202-753 (LOT 11.01)
BOOK 4152-396 (LOT 17.01)
BOOK 5147-986 (LOT 17.06)
F.M. REF. 78-12

OFFSETS AS SHOWN HEREON ARE NOT TO BE USED AS A BASIS FOR CONSTRUCTION OF FENCES OR OTHER PERMANENT STRUCTURES.

ROBERT W. SMITH, JR.
PROFESSIONAL LAND SURVEYOR N.J. LIC. NO. 023934

Proj. No.: 17-62504







Borough of Highlands
151 Navesink Ave
Highlands, NJ 07732
Phone: (732) 872-1224
DENIAL OF ZONING PERMIT
IDENTIFICATION

Control #: Z-0193
Date Issued: 2/21/2025

Item 7.

Work Site Location:	<u>19 BAY AVENUE</u>	Block:	<u>38.01</u>	Lot:	<u>13</u>	Zone:	<u>B-2</u>
Owner in Fee:	<u>AYERS, TIMOTHY</u>	Contractor/Agent:	<u>AYERS, TIMOTHY</u>				
Address:	<u>19 BAY AVENUE</u>	Address:	<u>19 BAY AVENUE</u>				
	<u>HIGHLANDS NJ 07732</u>		<u>HIGHLANDS NJ 07732</u>				
Telephone:	<u></u>	Telephone:	<u>(732)796-1500</u>				
		Contractor License No:	<u></u>				

For the project/work located at the above address, your application for a permit to:

Requesting permission to use the 2nd floor of our building as a residential space so that we can advertise it as an AirBnb short term rental space.

has been denied for noncompliance with provisions of Sections: of the Municipal Zoning Ordinance for the following reasons:

The property is located in the WC-1 Waterfront Commercial zone, where residential uses are not permitted. Approval from the Land Use Board is required for the residential use of the second-floor apartment.

Information on procedures for an appeal of this decision to the Land Use Board can be obtained from the Secretary of the Land Use Board. It should be noted that under State Statute, notice of appeal of this decision must be filed with this office not later than (20) days from the date of this notice. You can also file for a variance to the Land Use Board and can obtain from the Secretary of the Land Use Board the required forms.

The permit which you submitted has been placed in the inactive files in the Zoning Department. Please contact this office to reactivate the permit.

Denied by:

Courtney Lopez

Zoning Official



Roberts
ENGINEERING GROUP LLC
Women Business Enterprise Certified

1670 Whitehorse-Hamilton Square Rd.
Hamilton, New Jersey 08690
609-586-1141 fax 609-586-1143
www.RobertsEngineeringGroup.com

March 14, 2025

Nancy Tran
Land Use Board Secretary
Borough of Highlands Land Use Board
151 Navesink Avenue
Highlands, New Jersey 07732

Re: Completeness Review No. 1
Use Variance & Appeal
Applicant: Timothy Ayers
19 Bay Avenue
Block 38.01, Lot 13
Borough of Highlands, Monmouth County, New Jersey
Our File No.: HLPB25-01

Dear Ms. Tran:

As requested, we have reviewed the above referenced application in accordance with the Borough of Highlands Zoning and Land Use Regulations.

The Applicant seeks approval for the 2nd floor of an existing 1,200 sf 2-story multi-use commercial building as residential space for an Airbnb short term rental space. The 2nd floor is currently one room with a kitchenette and bathroom having a private entrance via an exterior stairwell.

The lot is approximately 3,220 square feet located in the WC-1 Waterfront Commercial District within the AE Flood Hazard area and partially in Zone X500. The lot is fronted to the north and south by Bay Avenue (County Route No. 8) and Shore Drive (one way), respectively. Parking is provided by a lot with access to Bay Ave and parking onsite along the building having access from Shore Drive. Additional parking is along Shore Drive.

The Applicant received a Denial of Zoning Permit on February 21, 2025, for a non-permitted residential use in the WC-1 Waterfront Commercial District. The Applicant must seek Planning Board approval for a use variance as directed by the Zoning Officer.

The current application is for the use variance and an appeal for the zoning denial.

We have reviewed the following documents submitted in support of the above referenced application for completeness purposes:

1. Copy of the Land Use Board Application dated February 19, 2025.
2. Copy of the Denial of Zoning Permit issued on February 21, 2025, by Courtney Lopez, Zoning Officer for the Borough of Highlands.
3. Copy of a Survey entitled, "Plan of Survey situate Borough of Highlands, Monmouth County, New Jersey, Block 38.01 Lot 13, prepared by Seneca Survey Co. Inc. and signed by Robert W. Smith, Jr., PLS, dated August 8, 2017", 1 Sheet.
4. Copies of two (2) sketches of floor plans.

We recommend this application be deemed COMPLETE.

The Applicant is seeking a use variance with existing bulk variances. There are no site improvements other than clarification on the required number of parking spaces.

We offer the following comments and recommendations:

1. This property is located in the WC-1 Waterfront Commercial District.

2. The Applicant has noted a "B-2" zone on the application. This is not a designated zoning district. Please correct.
3. The Applicant requires a D(1) use variance for approval of a non-permitted residential use in the WC-1 Waterfront Commercial District.

To be entitled to a D(1) use variance, the applicant must provide proof to satisfy the positive and negative criteria pursuant to N.J.S.A 40:55D-70d for use variance.

The Applicant will be required to provide proof during testimony.

4. According to the survey submitted, the Applicant will require five (5) bulk variances for the lot frontage/width for Bay Avenue and Shore Drive, minimum lot depth, minimum front yard setback for Shore Drive and maximum lot coverage as shown in Table 1 below.

The Applicant is required to confirm the variances and quantities.

To be entitled to bulk "c" variance relief, the applicant must provide proof to satisfy the positive and negative criteria pursuant to N.J.S.A 40:55D-70c for bulk variances.

The Applicant will be required to provide proof during testimony.

The following bulk requirement summary is provided for the Board's reference. In accordance with Ordinance §21-85, existing and proposed bulk deficiencies which require bulk "c" variances are noted as follows:

Table 1: Schedule I – Bulk and Area Requirements			
WC-1 Non-Residential Zone	Required	Existing	Proposed
Min. Lot Area (sf)	-	3,220±	3,220±
Lot Frontage/Width (ft)			
Bay Avenue	100	52.5±**	52.5±*
Shore Drive	100	52.5±**	52.5±*
Min. Lot Depth (ft)	150	61.1**	61.1*
Min. Front Yard Setback (ft)	20		
Bay Avenue		36.7±	36.7±
Shore Drive		0.1**	0.1*
Min. Side Yard Setback (ft)	8/8	9.5/15.0±	9.5/15.0±
Min. Rear Yard Setback (ft)	-	-	-
Max. Building Height (ft)	36	<36	<36
Max Lot Coverage	65%	87.3±%**	87.3±%*
Max Building Coverage	25%	18.6±%	18.6±%
Min. Deck/Stairs Setback (ft)	3	5.6±	5.6±

Off-street Parking (spaces)	3***	5***	5***
Commercial, 1 space/600 sf GFA			
Residential, 1.8 spaces/1 bdrm			

* Proposed Variance
** Existing non-conformity
***ADA compliance required

5. The survey and the sketches do not indicate the dimensions and square footages of the first and second floors.
6. Please confirm that the building can accommodate the required use and occupancy of space according to *N.J.A.C., Title 5. Community Affairs, Chapter 28. New Jersey State Housing Code, Subchapter 1. Standards of Habitability, §5:28-1.11 Use and occupancy of space:*
 - a. *Every dwelling unit shall contain at least 150 square feet of floor space for the first occupant thereof and at least 100 additional square feet of floor space for every additional occupant thereof, the floor space to be calculated on the base of total habitable room area.*
 - b. *Every room occupied for sleeping purposes by one occupant shall contain at least 70 square feet of floor space, and every room occupied for sleeping purposes by more than one occupant shall contain at least 50 square feet of floor space for each occupant thereof.*
 - c. *At least one-half of the floor area of every habitable room shall have a ceiling height of at least seven feet. The floor area of that part of any room where the ceiling is less than five feet shall not be considered as part of the floor area in computing the total floor area in the room for the purpose of determining the maximum permissible occupancy thereof.*
7. The Applicant is required to provide the number of required parking spaces for the commercial space and residential rental space according to the *N.J.A.C., Title 5. Community Affairs, Chapter 21. Residential Site Improvement Standards New Jersey State Housing Code, Subchapter 4. Street and Parking, §5:28-4.14 Parking: number of spaces* and the *Borough of Highlands Municipal Code §21-65.14.*

Municipal Code §21-65.14 requires off street parking of 1 parking space for 600 sf commercial gross-floor area and 1.8 spaces for a one bedroom.

Please confirm and indicate the existing and proposed parking spaces.

Provide or indicate the required handicapped accessible parking. Provide required signage.

Should you have any questions, please do not hesitate to contact me.

Very truly yours,

Carmela Roberts, PE, CME, CPWM
Land Use Board Engineer

cc: Michael Muscillo, Borough Administrator, (mmuscillo@highlandsborough.org)
Dustin F. Glass, Esq., Land Use Board Attorney (dglass@semerarolaw.com)
Courtney Lopez, Zoning Officer (clopez@highlandsborough.org)
Daniel J. O'Hern, Jr., Applicant's Attorney (dohern@byrnesohern.com)
Cameron Corini, PE, CME, CPWM, Roberts Engineering Group, LLC
GS Bachman, E.I.T., Roberts Engineering Group, LLC

TO: Borough of Highlands Land Use Board

FROM: Susan Gruel, PP
Megan Adam, Associate Planner

RE: 19 Bay Avenue
Block 38.01, Lot 13
Use Variance, Waiver of Site Plan Requirements, and Appeal of Zoning Official Decision

DATE: May 7, 2025

As requested, we have reviewed the following materials:

- Borough of Highlands Land Use Board Application, dated January 29, 2025;
- Borough of Highlands Zoning Board of Adjustment Resolution 2010-03;
- Property Survey of Block 38.01, Lot 13 in the Borough of Highlands, prepared by Seneca Survey Co., Inc., dated August 3, 2017;
- 2-sheet Concept Sketches, undated;
- Completeness Review for Proposal at 19 Bay Avenue, prepared by Carmela Roberts, PE, CME, CPWM, Land Use Board Engineer, dated March 14, 2025; and
- Denial of Zoning Permit for 19 Bay Avenue, prepared by Courtney Lopez, Borough of Highlands Zoning Official, dated February 21, 2025.

Site Description

The subject property is an approximately 0.07-acre (3,220 square foot) through lot with frontage along Bay Avenue to the north and Shore Drive to the south, located at 19 Bay Avenue. The property is located on Lot 13 of Block 38.01 in the Borough and includes approximately 54.7 feet of frontage along Bay Avenue (two-way roadway) and 52.5 feet of frontage along Shore Drive (one-way roadway).

The property is developed with a two-story office building, which includes a ground floor area of 1,200 square feet, and second floor area of approximately 363 square feet. The building's current use includes the offices of the Inspired Network Financial Group on the ground floor. The second floor of the building is noted to include an open-concept room with a kitchenette and one (1) bathroom. The second level is only accessible via an external staircase and semi-enclosed porch. The ground level is faced with brick, while the second level is lined with white vinyl paneling.

The property's asphalt parking area, accessed to/from Bay Avenue, is located in the front yard of the existing building. Spaces within this parking area are not delineated, so it is currently unclear how many

parking spaces are provided. Signage along a wooden fence indicates that parking is reserved for the Inspired Network Financial Group. The office building is accessed up a flight of stairs from the parking lot. An additional, smaller parking area has been created directly adjacent to the building, and is accessed to/from Shore Drive. This area is marked by the same signage as the larger parking lot, that it is reserved for the finance office. This smaller parking area is located at a higher elevation on the lot and does not require the use of the stairs to access the building; however, no ADA signage or markings are present.

The subject property is located within the WC-1 Waterfront Commercial Zone. Directly east of the property, on Lot 12, is a one-story building that houses the offices of DSV Property Management. On Lot 15.01 to the west is the Chubby Pickle sports bar and grill. The remaining portion of the block on which the property is located includes surface lots for parking overflow from the nearby Bahrs Landing and Moby's Lobster Deck restaurants and the Gateway Marina.

Prior Property Approvals

The subject property was granted preliminary and final site plan approval by the Borough's Zoning Board of Adjustment on March 4, 2010 (memorialized in Resolution 2010-03). This application involved the construction of the existing 363-square feet second-story addition, and a 158-square foot addition to the ground floor.

The approved uses for the site included a seasonal bicycle rental shop on the ground floor, and an office space on the second floor for a local masonry contracting business. This level was to be occupied by at most two (2) employees. Access for the second level was always intended to be separate from the ground level.

The approved parking arrangement for the site describes the parking lot along Bay Avenue containing three (3) parking stalls. The parking area accessed from Shore Drive is described as a handicapped space. Therefore, a total of four (4) parking spaces were approved.

Zoning Permit Denial

On February 21, 2025, the subject property was issued a zoning permit denial from the Borough's Zoning Official, for requesting to utilize the second floor of the building as a short-term rental studio apartment.

Aerial of Subject Property



Project Overview

The applicant is proposing to convert the entire second level into a short-term rental studio apartment. It is currently unclear whether any interior fit-out work (e.g., new flooring, lighting, partition walls) or exterior modifications to the parking areas are proposed as a result of the residential addition.

The proposed apartment will include an open-concept living/sleeping room, which includes access to the existing kitchenette and bathroom. The covered porch will remain and serve as an extended living space for the unit.

Zoning

The property is in the WC-1 Waterfront Commercial 1 Zone. Per Chapter 21 of the Borough Ordinance, all residential uses are explicitly prohibited within this Zone. Therefore, the application requires a d(1) use variance.

WC-1 Waterfront Commercial 1 Zone (Chapter 21 Attachment 1)			
	Ordinance Requirements	Existing	Proposed
Min. Lot Area	-	3,220 SF	No change
Min Lot Frontage/Width	100 feet	Bay Ave.: 54.7 feet (ENC)* Shore Dr.: 52.5 feet (ENC)	No change (V)
Min. Lot Depth	150 feet	57.1 feet (ENC)	No change (V)
Min. Front Setback	20 feet	Bay Ave.: > 20 feet Shore Dr.: 0.1 feet (ENC)	No change (V)
Min. Side Setback	8 feet / 8 feet	9.5 feet / > 8 feet	No change
Min. Rear Setback	-	N/A – through lot	N/A
Max. Building Height	36 feet	<36 feet	No change
Max. Building Cover	25%	~18.6%	No change
Max. Impervious Cover	65%	~87% (ENC)	No change (V)

Required Stair Setback from Property Line (21-8)	3 feet from any side or rear property line	Applicant to confirm setbacks from private stairway to second level	No change
--	--	--	------------------

* The lot frontage along Bay Avenue was taken from the most recently amended Borough tax maps, from December 2024.

ENC = Existing non-conformance

V = Bulk variance relief required

Off-Street Circulation, Parking, and Loading Requirements			
	Ordinance Requirements	Existing	Proposed
Minimum Number of Parking Spaces (26-65.14)	Professional Services: 1 per 600 square feet of gross floor area: 1,200 SF / (600 SF/parking space) = 2 spaces + 1-Bedroom Apartment = 1.8 spaces per unit = 1.8 spaces Total = 4 spaces	Unclear - applicant to confirm	No change
Minimum Parking Space Dimensions (26-65.14D)	In general, ninety (90) degree parking spaces shall be nine (9) feet wide by eighteen (18) feet long	Unclear - applicant to confirm	No change
Driveway Aisle Width (26-65.14D)	Bay Avenue lot (90-degrees parking angle): 24 feet Shore Drive (one-way, head on parking area): 12 feet	Unclear - applicant to confirm	No change
Guide Rail Provisions (26-65.14D)	Parking spaces shall be delineated by a treated wood guide rail, at minimum of thirty (30) inches above grade	Not provided (ENC)	No change (W)

W = Design Waiver required

Variances and Waivers Required

D(1) Use Variance

1. The applicant requires d(1) variance relief to permit apartment use within the WC-1 Waterfront Commercial 1 Zone.

Pre-Existing Non-Conforming Conditions

Pre-existing non-conforming conditions include:

C-Variances

1. **Insufficient Lot Frontage/Width (Chapter 21 Attachment 1)** – A minimum lot width/frontage of 100 feet is required, where 54.7 feet exists along Bay Avenue and 52.5 feet exists along Shore Drive, and is proposed to remain.
2. **Insufficient Lot Depth (Chapter 21 Attachment 1)** – A minimum lot depth of 150 feet is required, where 57.1 feet exists, and is proposed to remain.
3. **Insufficient Front Setback (Chapter 21 Attachment 1)** – A minimum front setback of 20 feet is required, where 0.1 feet exists along Shore Drive, and is proposed to remain.
4. **Excessive Impervious Coverage (Chapter 21 Attachment 1)** – A maximum impervious coverage of 65% is permitted, where 87% exists, and is proposed to remain.

Design Standards

5. **Guide Rail Provisions (§26-65.14D)** – Where guide rails are required for surface parking spaces, no guide rails exist and none are proposed.

Planning Comments:

Variance

1. This application requires d(1) use variance relief to permit an apartment use within the WC-1 Zone. The applicant shall provide planning testimony to justify the requested relief from the Board.
 - a. Positive Criteria - That there are “special reasons” for granting the requested variance and that the site is “particularly suitable” for the proposed use, which are often referred to as the “positive criteria”.
 - i. The “special reasons” testimony shall either demonstrate how the proposed use advances the purposes of zoning, whether there is a hardship that prevents development of the property with a permitted use, or whether the proposed use is inherently beneficial.

- ii. The “particularly suitable” analysis should focus on why this location within the municipality or region is particularly suited to the use despite the zoning, and what unique characteristics of the site make it appropriate for the proposed use rather than a permitted use.
 - b. Negative Criteria - The applicant’s testimony must demonstrate that the requested variance can be granted without substantial detriment to the public good. This analysis should consider impacts on neighboring properties and on the general public welfare. The applicant’s testimony must demonstrate that the requested variance will not substantially impair the intent and the purpose of the Borough Master Plan and Zoning ordinance.
2. The application requires one (1) design exception. The applicant shall provide testimony demonstrating that strict compliance with the Ordinance standards is impracticable per the standard set forth at N.J.S.A. 40:55D-51.

Conformance with the Borough Master Plan

1. The 2016 Master Plan Reexamination Report for the Borough intentionally established distinct waterfront zones, separating waterfront commercial zones from waterfront residential and waterfront mixed-use residential/commercial zones. The subject property is located within a waterfront commercial zone, as most of the area’s development consists of restaurants, marinas, and commercial establishments; in accordance with the Master Plan Reexamination, all residential uses are prohibited within the waterfront commercial zones.
- a. Economic Development/ Redevelopment goals reiterated in this 2016 Reexamination Report support maintaining the unique character of each waterfront zoning district. These goals include:
 - i. “Focus economic activity in the Borough’s economic centers including Bay Avenue and commercial waterfront areas. Recognize the unique character of each area and promote development that will strengthen and reinforce market niches” (p.47).
 - ii. “Encourage selected retail, marina and office mixed use development along the Sandy Hook Bay waterfront that take advantage of extensive waterfront frontage and regional access. Target the corridor for uses that complement Bay Avenue rather than compete with it” (p.48).
 - b. The applicant shall provide testimony regarding the implications of deviating from the Reexamination Report’s vision, and proposing a residential addition within a waterfront commercial zone, rather than a waterfront residential or mixed-use zone.

Residential Addition

2. We note that the subject property (i.e., 19 Bay Avenue) is currently posted on Zillow as a “multifamily” home with one (1) bedroom, and three (3) bathrooms (including one (1) full bathroom and two (2) half bathrooms). Additionally, a second posting on Zillow lists the property as 750 square feet studio space with one (1) bathroom.
 - a. The Borough Ordinance explicitly prohibits all residential uses within the WC-1 Zone; the applicant shall therefore provide testimony regarding this appearance of an existing residential apartment on the site.
3. Dimensions / a drawing scale have not been provided with the concept floor plans. These dimensions shall be added to the drawings, to confirm the extent of the proposed living space.
4. The applicant shall confirm that the bathroom on the second floor is a full bathroom (i.e., provides a shower, toilet, and sink). These features shall be added to the drawing set, and the bathroom shall be articulated to read cohesively with the remainder of the floor plan features.
5. The applicant shall provide testimony regarding any safety measures (e.g., locks) to be implemented for the second floor apartment.
6. The applicant shall clarify provisions for the collection of trash and recycling for the short-term rental unit.
 - a. Will this be integrated with the office’s trash/recycling?
 - b. Who will be responsible for bringing trash to the curb on pickup days?

Site Improvements

While the following comments are related to compliance with the Borough’s site improvement standards, we reiterate that the primary scope of this application relates to the proposed residential addition.

7. The application indicates that a total of five (5) parking spaces exist on the site, but Resolution 2010-03 outlines a total of four (4) parking spaces (including the one ADA parking space) on the site.
 - a. The applicant shall clarify how the five (5) parking spaces were calculated.
8. The applicant shall confirm compliance with the following ordinance requirements, as they are currently unclear from the application materials. The survey should be revised accordingly to include this information.
 - a. Setback of the private exterior stairwell from eastern property line; per the standards outlined in §21-8, a minimum setback of 3 feet is required. Additional variance relief may be required.
 - b. The location of all existing parking spaces and their respective dimensions.

- i. The plans should clearly delineate all parking spaces within the parking areas. A minimum dimension of nine (9) feet wide by eighteen (18) feet long is required. Additional waiver relief may be required.
 - c. The width of both driveway aisles should be confirmed and added to the survey. A minimum width of 24 feet is required for the driveway along Bay Avenue and 12 feet is required along Shore Drive.
- 9. No ADA signage or pavement markings were observed during a site visit on May 1, 2025, within the driveway along Shore Drive.
 - a. An ADA parking space is required for the site, per Resolution 2010-03 and the Borough Ordinance; indication of ADA parking spaces must be articulated through signage and pavement markings.
- 10. Exterior light fixtures are shown around the building, but photometric plans have not been provided to demonstrate compliance with the Borough Ordinance.
 - a. The applicant shall provide testimony about the proposed lighting's compliance with Section 26-65.11 of the Borough Ordinance.
 - b. Additional design waivers may be needed for any deviations from the Borough's lighting standards.

Miscellaneous

- 11. The pavers along the secondary driveway encroach over the northwestern property line. Do any easements exist on the property?
- 12. The survey provided was conducted almost 8 years ago. The applicant shall clarify that no major site improvements have been made within this time period.

Site Visit Photos (taken May 1, 2025)



Views of the subject property along Bay Avenue.



Views of the subject property along Shore Drive.



(Left) Secondary parking area, accessed from Shore Drive.

(Right) Private external staircase leading to the proposed residential unit.



19 Bay Avenue



4-5 parking spots
in front lot



Handicapped accessible parking



Add a Caption

Thursday • May 8, 2025 • 10:16 AM

[Adjust](#)

IMG_0498

Apple iPhone 13

JPEG

Wide Camera — 26 mm $f1.6$

12 MP • 3024 x 4032 • 3 MB

VIBRANT WARM

ISO 50

49 mm

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[Add a location...](#)







1st Floor Office





BOROUGH OF HIGHLANDS
COUNTY OF MONMOUTH

LAND USE BOARD RESOLUTION 2025-15

RESOLUTION TO HOLD A CLOSED SESSION

WHEREAS, the Open Public Meetings Act (N.J.S.A. 10:4. et seq.) provides for the exclusion of the public from meetings of a public body during the discussion of certain matters; and

WHEREAS, prior to the exclusion of the public from a meeting of the Highlands Land Use Board it is required that the Board adopt a Resolution stating the general nature of the subject to be discussed and stating as precisely as possible the time when the minutes of the discussion conducted in closed session can be disclosed to the public; and

WHEREAS, this Board is about to consider a matter which falls within the purview of N.J.S.A. 10-4-12, and can properly exclude the public from such discussions.

NOW THEREFORE BE IT RESOLVED, that the Land Use Board of the Borough of Highlands, now assembled in public session at its regular meeting of May 8, 2025, enter into a closed session to consider the following matter(s).

- () 1. Discussion of any material, the disclosure of which constitutes an invasion of individual privacy.
- () 2. A collective bargaining agreement or the terms of provisions of same.
- () 3. Techniques or tactic utilized to protect the safety and property of the public provided that their disclosure could impair such protection.
- () 4. An investigation of violations or possible violations of the laws of the State of New Jersey and/or the Borough of Highlands Administrative Code.

- () 5. Pending or anticipated litigation or contract negotiation in which this body is or maybe a party.
- (X) 6. A matter falling within the attorney-client privilege to the extent that confidentiality is required in order for the attorney to exercise his ethical duties to this body.
- () 7. Personnel matters.
- () 8. Discussion of any matter which by express provision of Federal law or State statute or rule of Court shall be rendered confidential.
- () 9. Discussion of any matter in which the release of information would impair a right to receive funds from the Government of the United Sates.
- () 10. Discussion of any matter involving the purchase, lease or acquisition of real property with public funds, the setting of banking rates or investment of public funds, where it could adversely affect the public interest if discussion of such matters were disclosed.
- () 11. Deliberations occurring after a public hearing that may result in imposition of a civil penalty or suspension or loss of a license or permit.

More specifically, the Highlands Land Use may discuss in closed session the following topic(s):

Attorney-Client Privilege/Affordable Housing - Fourth Round Housing Plan

The general subject matter(s) of discussion shall be indicated by a check mark in the appropriate box and shall be more specifically referred to thereafter to the extent such additional disclosure can be made without compromising the need for confidentiality giving rise to the closed session.

BE IT FURTHER RESOLVED that the minutes of said discussion shall be made public as soon as the matter under discussion is no longer of a confidential or sensitive nature such that the public interest will no longer be served by such confidentiality.

Robert Knox, Chairman
Borough of Highlands Land Use Board

ON MOTION OF:
SECONDED BY:
ROLL CALL:
YES:
NO:
ABSTAINED:
INELIGIBLE:
ABSENT:
DATED:

I hereby certify this to be a true and accurate copy of the Resolution adopted by the Borough of Highlands Land Use Board, Monmouth County, New Jersey, at a public meeting held on May 8, 2025.

Nancy Tran, Board Secretary
Borough of Highlands Land Use Board