



**BOROUGH OF HIGHLANDS
COUNTY OF MONMOUTH**

LAND USE BOARD RESOLUTION 2026-18

**MEMORIALIZATION OF MINOR SITE PLAN APPROVAL
WITH BULK VARIANCE RELIEF AND DESIGN WAIVERS**

**IN THE MATTER OF SOLAR POWERED 44, LLC
APPLICATION NO. LUB2025-10**

**Approved: May 14, 2026
Memorialized: December 11, 2026**

WHEREAS, an application for minor site plan approval with ancillary bulk variance relief and design waivers has been made to the Borough of Highlands Land Use Board (hereinafter referred to as the “Board”) by Solar Powered 44, LLC (hereinafter referred to as the “Applicant”) on lands known and designated as Block 58, Lot 7.01, as depicted on the Tax Map of the Borough of Highlands (hereinafter “Borough”), and more commonly known as 44 Miller Street, Highlands, New Jersey, in the R-2.02 Single-Family Residential (R-2.02) Zone District (hereinafter “Property”); and

WHEREAS, live public hearings were held before the Board on November 13, 2025, December 11, 2025, March 12, 2026, and May 14, 2026, 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 approximately 0.11-acre (4,920 square foot) corner lot

with frontage along Fourth Street and Miller Street, located at 44 Miller Street (Block 58, Lot 7.01).

2. The subject Property is located within the R-2.02 Single Family Zone of the Borough. Single family dwellings, occupied by one (1) family are a permitted use within this Zone.

3. The Property includes approximately 61.5 feet of frontage along the west side of Miller Street and 80 feet of frontage along the south side of Fourth Street. The Property is located within the AE flood zone and has a base flood elevation of 11 feet.

4. The Applicant is seeking minor site plan approval with ancillary bulk variance relief and design waivers to construct a raised, two and one-half (2 ½) story, single-family dwelling with parking on the existing lot, located underneath the dwelling in enclosed garage space.

5. The Site Plan and Architectural Plan which form the basis of the Applicant's request and upon which the Board relied on in considering this application are the following:¹

- Site plans entitled, "Minor Site Plan w/ 'C' Variances, 44 Miller Street, Lot 7.01, Block 58, Borough of Highlands, County of Monmouth, New Jersey", prepared by Morgan Engineering & Surveying, dated May 7, 2025, last revised March 24, 2026, consisting of 3 sheets; and
- Architectural plans entitled, "Single Family Residence for Landgrebe, 44 Miller Street, Highlands, NJ, Lot# 7.01, Block# 58", prepared by James T. Daley Architect + Associates, dated February 23, 2021, last revised March 30, 2026, consisting of 5 sheets.

6. The dwelling is proposed to have five (5) bedrooms and five and one-half (5 ½) bathrooms, with a three-car garage and elevator.

7. The garage level of the dwelling will feature three (3) functional garage bays, with a fourth garage bay converted into storage space with a depth of no more than ten (10) feet, with

¹ All references shall be to these plans unless otherwise indicated in this Resolution.

French doors leading to the exterior. The garage level shall feature means of ingress and egress, as well as a front porch located at the corner of Miller Street and Fourth Street.

8. The first floor of the dwelling will feature interior living space, inclusive of a kitchen, pantry, dining area, and powder room, with an uncovered deck located at the rear, northwest corner, of the dwelling.

9. The second floor of the dwelling includes four (4) bedrooms, four (4) bathrooms, a home office, and balconies located at the rear, northwest corner, of the dwelling.

10. The half-story, upper floor of the dwelling includes one (1) bedroom, one (1) bathroom, a den, and attic space, as well as an uncovered deck located at the front of the home, fronting both Miller Street and Fourth Street.

11. As a result of the Applicant’s proposal, the following relief is requested:

Schedule I – Bulk and Area Requirements				
R-2.02 Single Family Residential District				
	Required	Existing	Proposed	Variance
Min. Lot Area (sf)	4,000	4,920	4,920	No
Lot Frontage/Width (ft)	50			
Miller Street		61.50	61.50	No
Fourth Street		80	80	No
Lot Depth (ft)	75	70.75	70.75	Yes
Min. Front Yard Setback (ft)	20 ⁽²⁾			
Miller Street		3.3 ^{(1)F}	3.6	Yes
Fourth Street		1.25 ^{(1)F}	1.25	Yes
Miller Street Masonry Wall		-.7 ⁽¹⁾	.7	Yes
Min. Side Yard Setback (ft)	6/8			
Miller Street		24 ^F	22.5	No
Fourth Street		20 ^F	7.3	No
Max. Building Height (ft) ⁽³⁾	30	24	32.5	No
Max. Lot Coverage (%)	75	-	54.6	No
Max. Building Coverage (%)	33	-	41.3	Yes
Min. Deck/Stairs Setback (ft) ⁽⁵⁾	3	1.1	.9	Waiver
On-Site Parking (spaces) ⁽⁴⁾	3	2	3	No
Driveway Dimensions (ft) ⁽⁶⁾				
Curb	18	-	22.5	Waiver
Interior	22	-	22	No
Landscaping and Street Trees ⁽⁷⁾	To be Provided	-	None	Waiver

F = Foundation of Former Dwelling per Survey dated 11/11/20.

(1) Existing non-conformity.

(2) Or the average of the existing front yard setback within two hundred (200) feet in the same block and zone, per § 21-79.B.

(3) Where a dwelling is constructed or reconstructed to provide the required parking under the structure, the maximum height shall be increased by two and one-half feet.

(4) 1.5 spaces per unit with 2 bedrooms x 2 units.

(5) Design Waiver from § 21-65.27, "Yards, Courts and Exposures," of the Borough Ordinances.

(6) Design Waiver from §21-65.5, "Driveway Dimensions," of the Borough Ordinances.

(7) Design Waiver from §21-65.10, "Landscaping and Street Trees," of the Borough Ordinances.

Background

12. Previously, a one-story, two-family duplex existed on the subject Property.

13. On or about August of 2021, the then-existing dwelling was demolished.

14. At some point between the demolition of the previous structure and March 4, 2024, construction of a new three-story concrete duplex on the site began. On this date, the Borough's Zoning Official issued a Stop Work Order, as the site had not received zoning approval.

15. On August 20, 2024, the subject Property was issued a zoning permit denial from the Zoning Official, for noncompliance with provisions of Sections: 21-98.A, 21-98.C of the Borough's Zoning Ordinance. The zoning denial reiterated that d(1) use variance approval is required to construct a new two-family duplex in the R-2.02 Single Family Zone.

16. The Applicant then received a Notice of Unsafe Structure on September 13, 2024, and was ordered to demolish the new duplex by October 4, 2024. The Applicant received a follow up to this Notice of Unsafe Structure status on December 17, 2024, and was fined on January 12, 2025.

17. On September 27, 2024, an application for a variance and an appeal for the zoning denial was submitted with surveys and architectural plans (LUB2024-07). Subsequently, on February 10, 2025, sketches and architectural plans were submitted for review.

18. The Completeness Review letters dated October 21, 2024, and February 19, 2025, corresponding to the September and February submissions, noted Sections 21-98.A and C with

the full descriptions. Both reviews noted the application as incomplete and that a d(1) Use Variance, Site Plan and checklist were required for the Board to make an informed review and decision regarding the application.

19. In or about June of 2025, the Applicant withdrew the initial application and submitted LUB2025-10.

The Initial Application

20. The Applicant's application, dated June of 2025, sought minor site plan approval with (d) "use" variance relief to complete the construction of a three-story, two (2) unit duplex with parking on the existing lot.

November 13, 2025 Hearing

21. At the November 13, 2025 hearing date, and as confirmed in a letter from the Applicant's Counsel (Brad Batcha, Esq.), dated December 11, 2025, the Applicant amended its application to seek alternate forms of relief as follows:

Applicant is seeking a Certificate of Pre-Existing Nonconforming Use pursuant to N.J.S.A. 40:55D-68, along with (d)(2) variance relief for the Expansion of a Nonconforming Use pursuant to N.J.S.A. 40:55D-70(d)(2), (c)/bulk variance relief pursuant to N.J.S.A. 40:55D-70(c), and design waiver(s) pursuant to N.J.S.A. 40:55D-51.

In the event the Board denies the Applicant's request for a Certificate of Pre-Existing Nonconforming Use, the Applicant is seeking a (d)(1) use variance pursuant to N.J.S.A. 40:55D-70(d)(1), along with (c)/bulk variance relief and design waiver(s) pursuant to N.J.S.A. 40:55D-70(c) and N.J.S.A. 40:55D-51, respectively.

22. Mr. Batcha summarized the application before Mark Landgrebe, the Applicant and Property owner, was sworn in to testify.

23. Mr. Landgrebe shared a seven-page document (A-1) with the Board as an exhibit, outlining the timeline for the applicant's project and testified thereto.

24. The Applicant then shared an original set of plans dated 06/21/2021 with

signatures of the then Zoning Official and Building Official with the Board as an exhibit (A-2).

25. Mr. Sayah stated that once a structure is knocked down, a use variance is needed for the non-conforming multifamily structure. In response, Mr. Landgrebe and Mr. Batcha confirmed that they are requesting a use variance.

26. Vice Chair Tierney asked regarding the unsafe structure status and Ms. Roberts answered that she was not sure. In response, Mr. Landgrebe testified about the unsafe structure situation.

27. Mr. Montecalvo asked if there were plans to lift the original house. Mr. Landgrebe answered that he originally planned to lift it but then abandoned that plan for the current project.

28. Jim Daley, the Applicant's architect, was sworn in and his credentials were accepted. Mr. Daley testified that the building height will conform to the Zoning Ordinance.

29. Ms. Gruel, the Board's planner, was sworn in and asked Mr. Daley what he thought of the visual impact of the proposed project and whether the proposed height and setbacks conformed with the neighborhood.

30. Mr. Daley deferred to the Applicant's Planner to respond.

31. Kathryn Gregory, the Applicant's planner, was sworn in and her credentials were accepted. She distributed a handout (A-3) that depicted the neighboring conditions and characteristics.

32. Mr. Sayah asked for a rendering of the proposed structure. Mr. Daley and Mr. Landgrebe agreed to provide such a rendering, and Mr. Landgrebe testified as to what materials will be used in construction.

33. Vice Chair Tierney added context to the LUB application that Ms. Gregory referenced and asked for an example of neighboring properties with no setbacks.

34. Ms. Gregory continued her testimony and distributed a 1980 survey of the property with a one-story, duplex dwelling (A-4). She compared the property with others in the area, noted existing variances and proposed variances.

35. Ms. Gregory described the proposed stairs and driveway and testified as to the positive and negative criteria, comparing the proposed plans with the Master Plan goals.

36. Ms. Gruel noted points and pictures from her report to the Board, emphasizing the neighborhood pattern of setback along Miller Street.

37. Vice Chair Tierney asked about the proposed planter box. In response, Mr. Landgrebe testified that the planter box was located in the location of the old stairs and described the proposed planter box and its features.

38. Mr. Montecalvo asked for clarification of the driveway turning radius. In response, Mr. Daley testified that it is tight but sufficient.

39. In response to further comments from the Board, the Applicant agreed to provide landscaping plans.

40. Jo-Anne Olszewski, Grand Tour, asked for details regarding the driveway. Mr. Landgrebe testified in response.

41. Carolyn Broullon, Miller St., stated that the Applicant had previously come to her, in her capacity as Mayor, with plans to knock down the structure and that she had told him at the time that he could not tear down the structure without losing the non-conforming status and that the Applicant went ahead to Middletown with the application anyway.

42. Mr. Batcha responded to Ms. Broullon's comment, with the Applicant's interpretation of the answer he received from her.

December 11, 2025 Hearing

43. Mr. Batcha reviewed the testimony heard so far, the updated plans – what has been changed since and what remained the same. He referenced the 2020 Survey by Charles Surmonte and the proposed project.

44. Acting Chair Tierney asked for the proof of payment that the Board requested. In response, Mr. Landgrebe shared the bank statement with a cancelled check for the demolition and construction permits. He noted additional records he had relating to the project (A-5).

45. Acting Chair Tierney asked whether proof of disconnected utilities was also required for lifting a house. When Mr. Landgrebe testified in the affirmative, Acting Chair Tierney stated that she was looking for a zoning approval for a new construction.

46. Mr. Sayah asked for a demolition permit prior to the house being torn down.

47. Mr. Batcha stated that his client has been working to locate the missing documents the Board requested but noted that Mr. Landgrebe had testified that the zoning official said that he could reconstruct if he stayed within the existing footprint.

48. Mr. Landgrebe added additional testimony that he proceeded based on Middletown's recommendations and that he did the demolition and building himself.

49. Donna Bullock, the Applicant's engineer, was sworn in and her credentials accepted.

50. Ms. Bullock testified about the Property and her firm's services for the Applicant, describing the landscaping plans and the turning radius of the driveway.

51. Ms. Bullock reviewed Ms. Robert's letter dated 12/11/2025 and noted that applicant's agreement to comply with all requirements therein. Ms. Bullock then compared her survey with the 2020 survey (A-6).

52. Ms. Bullock continued testifying about similar neighboring properties that related to Ms. Gregory's, the applicant's planner, testimony.

53. Acting Chair Tierney noted that the Board asked for similar properties along Miller Street.

54. Ms. Gruel noted that none of the examples Ms. Bullock gave were three-story structures.

55. Mr. Daley, the Applicant's Architect, was called back to testify, noting that the back deck was removed from the plans, which positively impacted the Property. Mr. Daley then shared the color renderings (A-7).

56. Acting Chair Tierney asked about the planter's position over the property line and stated that the proposed finish to the building will further exacerbate the encroachment.

57. Mr. Montecalvo added that the planter obstructs the view point of turning cars and asked for clarification regarding the existing footing and the location of the new foundation.

58. Mr. Batcha stated that their engineer had testified that the foundation was in the same location.

59. Mr. Landgrebe and Mr. Daley further testified as to the location of the footings.

60. Ms. Broullon (Miller Street) asked why the current Construction Official's signature was on the 2021 construction permit. In response, she was advised that is how the software produces stored permits. Ms. Broullon then asked for the original permit.

61. In response to questions from the Board, Mr. Landgrebe testified that given approval, he could finish the project within 12 months.

62. Ms. Gruel asked about the existing nonconforming use and noted that the previous structure was a 1-story dwelling, while the proposed project was asking the Board to

consider allowing the nonconforming use and additions thereto.

63. Mr. Batcha stated that they were seeking a d(2) variance for expanding the nonconformity. He added that if the Board did not approve the d(2) variance that they would revert to requesting a d(1) variance.

The Amended Application

64. On February 12, 2026, Counsel for the Applicant submitted correspondence, amending the application to pursue a one-family dwelling, in lieu of a two-family dwelling and, thus, abandon the request for a Certificate of Pre-Existing Nonconforming Use pursuant to N.J.S.A. 40:55D-68, along with (d) variance relief pursuant to N.J.S.A. 40:55D-70d, instead seeking (c) bulk variance relief pursuant to N.J.S.A. 40:55D-70c.

65. The Applicant's request for Minor Site Plan approval and design waivers is not impacted by the amendment.

March 12, 2026 Hearing Date

66. Revised plans were submitted as an exhibit (A-10).²

67. Mr. Batcha summarized the changes to the application, explaining that the Applicant was proposing a single-family dwelling as opposed to a two-family dwelling. He continued that the Applicant was now seeking bulk (c) variance relief, in lieu of use (d) variance relief.

68. Mr. Batcha further explained what needed to occur in order to convert the proposed dwelling into a one-family structure.

69. Mr. Daley, the Applicant's architect, provided additional testimony about the

² There is no exhibit A-8 or A-9.

revisions to the plan and answered questions from the Board and Planner regarding the updated plan.

70. There were questions no questions or comments from public at the March 12, 2026 hearing.

May 14, 2026 Hearing Date

71. Mr. Batcha, the Applicant's Attorney, provided a brief overview of the application and the modifications that have since been made to accommodate the Board's comments and concerns.

72. Mr. Batcha reviewed the Board Engineer's review letter as well as the Board Planner's review letter.

73. Board members and Board professionals had questions/concerns about the circulation plan and ADA compliance, number of garage doors, building height & number of stories, planter boxes & street trees, light plan & light spillage, fence details, and use of the property.

74. In response, Mr. Landgrebe agreed to work with his Engineer to submit a circulation plan and revised site plan with ADA notes.

75. Mr. Daley, the Applicant's Architect, was recalled to testify, providing testimony that due to the existing construction, the three (3) garage bays will need to remain, but they will convert one bay (of the original four (4) bays) to 10' of storage area with French doors.

76. Mr. Daley continued testifying that due to FEMA requirements and restrictions, the height of the dwelling will not change and the first level garage would never be converted to living space, so the dwelling will remain a two and one-half (2 ½) story structure.

77. Mr. Daley continued testifying that due to spacing limitations, street trees would

not be possible, but the planter boxes would be removed and plantings would remain.

78. Mr. Landgrebe agreed that the Property would not have spotlights, soffits, or any other lighting fixture that would create light spillage to surrounding properties. He also agreed to install compliant fencing in the rear of the property and remove the curb cut on Fourth street to not allow parking under the rear deck.

79. Board member Sayah asked if the Applicant would agree to file a Deed Restriction to ensure the use of the Property would remain a single-family use. Mr. Landgrebe agreed.

80. Resident Edward Pahler of 30 Miller Street appeared before the Board to state he was in favor of the project and is eager to have the construction completed.

81. There were no further members of the public expressing an interest in the 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 minor site plan approval pursuant to N.J.S.A. 40:55D-46.1 along with bulk variance relief pursuant to both N.J.S.A. 40:55D-70c(1) and c(2), and design waiver relief pursuant to N.J.S.A. 40:55D-51, should be granted in this instance.

Bulk Variances

The Board finds that the Applicant has proposed constructing a single-family residence, which requires minor site plan approval, bulk variance relief and design waivers. 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. Under the “c(1)” criteria, 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 with respect to the c(1) and c(2) criteria. The Board finds that the proposed single-family residence will be an aesthetically pleasing structure and will be consistent with neighboring development and, thus, create a desirable visual environment for the community. The Board further finds that the proposal provides adequate light, air and open space, with ample deck space for the Property. Moreover, amending the application to seek a single-family dwelling (as opposed to a two-family dwelling) results in the project promoting the establishment of appropriate population densities and concentrations that contribute to the well-being of the neighborhood, communities, and persons.

The Board further finds that the subject Property is unique and unusual with respect to its dimensions as it is oversized for the Zone and a corner lot, with two front yards (under the MLUL). 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 under both the c(1) and c(2) criteria.

The Board also finds that the negative criteria has been satisfied. To that end, the Board notes that through the course of the application and hearing process, the Applicant amended the application to propose a single-family dwelling instead of a two-family dwelling, which amendment, included the elimination of a second interior stairwell, removal of a second doorway to the street, elimination of a proposed rear stairwell, as well as the elimination of a proposed curb cut on Fourth Street, amongst other changes. As a result of those changes, the proposed single-family residence requiring variance relief will not cause a detriment to the community in

any discernible way.

In fact, the Board finds that proposed dwelling will be consistent with and fit in seamlessly with the prevailing neighborhood residential scheme. To the extent the size of the dwelling caused concerns for the Board, the oversized nature of the subject Property renders the site capable of accommodating the structure, while not rendering the proposed dwelling “too big” for the lot itself or visually imposing, when compared to the neighboring community. Similarly, the upper floor of the dwelling, the half-story, is setback from Miller Street, as a result of the proposed deck space, lessening the impact of the half-story, in any negative way.

The Board further finds that the Applicant has agreed to deed-restrict the Property, amongst other conditions of approval to which the Applicant has agreed, to single-family use. By doing so, the Applicant and all subsequent purchasers of the Property are on notice that the Property shall not be used for multi-family housing, regardless of a change in the Zoning Ordinance permitting multi-family dwellings in the Zone. Similarly, the Applicant has agreed to eliminate the proposed garage closest to Miller Street, replacing the garage door with French doors and rendering it for storage use only, with a depth of no more than ten (10) feet. Accordingly, to the extent the Board had concerns that the proposed dwelling would be used for multi-family housing, which would cause a detriment to and be inconsistent with the prevailing neighborhood residential scheme, Zone Plan and Master Plan, those concerns have been mitigated, to the Board’s satisfaction.

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. The Board further finds that the Applicant has agreed to install shielded, exterior lighting that will not spill over onto any adjoining properties, thereby improving

overall site and neighborhood safety, while not negatively impacting the neighborhood. Granting of the variances sought by the Applicant 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.

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) as well as c(1) as noted herein.

Design Waivers

The proposal also requires design waiver relief from the requirements of §21-65.5, “Driveway Dimensions,” §21-65.10, “Landscaping and Street Trees,” and §21-65.27, “Yards, Courts, and Enclosures” of the Borough Ordinances.

The MLUL permits site plan design exceptions pursuant to N.J.S.A. 40:55D-51(b). The statute permits the Board to grant a deviation from the requirements for site plan approval if (1) doing so is “reasonable”, (2) within the general purpose and intent of the provisions for site plan review and approval of an ordinance adopted pursuant to Article 4 of the MLUL; and (3) if the literal enforcement of one or more provisions of the ordinance is impracticable or will exact undue hardship because of peculiar conditions pertaining to the land in question.

Based on the testimony provided, the Board has determined that the design waivers may be reasonably granted because they present a better planning alternative and safer design overall. To that end, the proposed wider driveway will promote greater ability to circulate the and enter/exit the site, while not negatively impacting visibility and safety for motorists and/or pedestrians traveling along Miller Street or otherwise. The Applicant is required to provide a circulation plan to the satisfaction of the Board Engineer, to facilitate compliance.

With respect to the Miller Street masonry wall, the Board notes that although a design waiver is required, the existing nonconformity is improved with this application, with the existing masonry wall located over the property line by .7 feet, while the proposed masonry wall will be located within the Property line by .7 feet. The proposed location is appropriate and reasonable under the circumstances.

Lastly, although the Applicant has proposed landscaping and plantings, the Board concluded and the Applicant agreed that it was not practical to install street trees along Miller Street or Fourth Street and that the proposed planter, needed to be removed and leveled to the ground. Accordingly, only minimal plantings are possible and required as a condition of approval. Accordingly, a design waiver is appropriate.

For the foregoing reasons, the Board therefore finds that it is appropriate to grant design waiver relief pursuant to N.J.S.A. 40:55D-51.

Minor Site Plan Approval

Upon consideration of the plans, testimony, and application, the Board determines that the Applicant has met the minimum requirements of the MLUL, case law, and Borough Ordinances to a sufficient degree so as to enable to the Board to grant minor site plan approval pursuant to N.J.S.A. 40:55D-46.1, to the same it is requested or applicable to the variance relief also being granted herewith.

The Board emphasizes that it did not consider arguments from the Applicant that he detrimentally relied upon representations from Borough Officials to construct the existing structure and/or that the Board should be estopped from denying the requested relief, in reaching its findings of facts or conclusions of law. To the contrary, the Board determines that those arguments were rendered moot by the Applicant's decision to amend the application in or

about February 12, 2026, to pursue a single-family dwelling, in lieu of a two-family dwelling and, thus forego d/use variance relief. The Board's decision to grant minor site plan approval, with ancillary bulk variance relief and design waivers is based solely on the facts presented and whether the criteria of N.J.S.A. 40:55D-46.1, N.J.S.A. 40:55D-70c(1) and N.J.S.A. 40:55D-51 have been satisfied.

NOW, THEREFORE, BE IT RESOLVED by the Borough of Highlands Land Use Board on this 11th day of June 2026, that the action of the Board taken on May 14, 2026, granting application LUB 2025-10 of Solar Powered 44, LLC for minor site plan approval pursuant to N.J.S.A. 40:55D-46.1 with ancillary bulk variance relief pursuant to N.J.S.A. 40:55D-70c(1) and "c(2)" and design waiver relief pursuant to N.J.S.A. 40:55D-51 is hereby memorialized as follows:

The application is granted subject to the following conditions:

1. All site improvements 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's Professionals.
3. The Applicant shall apply for all necessary Zoning Permit(s).
4. Lighting. The Applicant shall add exterior lighting and (a) all exterior lighting shall be shielded; (b) there shall be no light spillage onto the adjoining properties; and (c) no lighting shall be installed in the soffits.
5. Garage Doors. The Applicant shall "fill-in" and eliminate the first garage door, closest to Miller Street. The depth of the first garage, closest to Miller Street, shall be no more than ten (10) feet. Accordingly, there shall be no more than three (3) functional garage bays.
6. Circulation Plans. The Applicant shall provide circulation plans subject to review and approval by the Board Engineer.
7. Deed Restriction. The Property shall be deed restricted for single-family use. The Applicant shall prepare a deed restriction subject to

review and approval by the Board Attorney. Upon approval, the Applicant shall record the deed restriction with Monmouth County and provide the Board with a copy of the recorded Deed Restriction.

8. Updated Engineering Plans. The Applicant shall provide updated engineering plans, depicting the elimination of the curb cut on Fourth Street, as well as the elimination of the planter. Updated engineering plans shall be subject to review and approval by the Board Engineer.
9. Fencing. The Applicant shall comply with the Borough's fence ordinance in all respect and provide full details of the fencing to be provided, which details shall be reflected on updated engineering plans and which are subject to review and approval by the Board Engineer.
10. Planter/Landscaping. With respect to the proposed planter on Fourth Street, the Applicant shall cutback the planter and lower it, such that it shall be flush with the main structure. Any and all variances associated with the planter shall be eliminated and simple landscaping along Fourth Street and Miller Street shall be provided.
11. 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.
12. The Applicant shall provide a certificate that taxes are paid to date of approval.
13. This approval is subject to the Applicant's 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.
14. 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.
15. 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:
ABSTAINED:
INELIGIBLE: Mayor Broullon and Councilperson Olszewski³
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 June 11, 2026.

Kate Maloney, Secretary
Borough of Highlands Land Use Board

³ The application commenced, in part, as a request for "d" variance relief. Accordingly, neither Mayor Broullon nor Councilperson Olszewski was eligible to participate in the application at that time. Although the application was later amended to forego the request for "d" variance relief, both Mayor Broullon and Councilperson Olszewski remained ineligible to participate for the entirety of the proceedings and did not participate in the application in their capacities as Board Members, at any time.

BOROUGH OF HIGHLANDS LAND USE BOARD
Case No. LUB25-10/Solar Powered 44, LLC
Bulk Variance Relief
May 14, 2026

APPLICATION DOCUMENTS⁴

- Land Use Board Application for Use Variance, undated and signed June 26, 2025.
- Notice of Zoning Violations issued on March 4, 2024, by Courney Lopez, Zoning Officer for the Borough of Highlands.
- Denial of Zoning Permit issued on August 20, 2024, by Courney Lopez, Zoning Officer for the Borough of Highlands.
- Site plans entitled, “Minor Site Plan w/ ‘C’ Variances, 44 Miller Street, Lot 7.01, Block 58, Borough of Highlands, County of Monmouth, New Jersey”, prepared by Morgan Engineering & Surveying, dated May 7, 2025, last revised March 24, 2026, consisting of 3 sheets.
- Architectural plans entitled, “Single Family Residence for Landgrebe, 44 Miller Street, Highlands, NJ, Lot# 7.01, Block# 58”, prepared by James T. Daley Architect + Associates, dated February 23, 2021, last revised March 30, 2026, consisting of 5 sheets.
- Survey entitled “Survey of Property, 44 Miller Street, Lot 7.01, Block 58, Borough of Highlands, Monmouth County, New Jersey”, prepared and signed by Charles Surmonte, PE, PLS, dated November 11, 2020. S

EXHIBITS⁵

All exhibits are noted in the Resolution of Approval. It bears emphasizing, however, that there is no exhibit A-8 or A-9 and, thus, the exhibits are A-1 through A-7, and A-10 *only*.

INTEROFFICE REPORTS

B-1 Board Engineer’s Review, dated August 12, 2025 (Review No. 1)

B-2 Board Engineer’s Review, dated December 11, 2025 (Review No. 2)

⁴ Although numerous revisions to both the Site Plans and Architectural Plans were submitted by the Applicant through the course of the application, only the most recent, revised plans, identified herein, which amended the application to its final form, were considered by the Board at the time it rendered its decision. Accordingly, the Resolution incorporates by reference all application documents submitted by the Applicant through the course of the application process but does not identify them herein as they were not relied upon by the Board in rendering its decision as to the Applicant’s request for bulk variance and design waiver relief.

⁵ Although the exhibits were not marked during the hearing, for sake of reference, they are being marked as “A-1” and “A-2” as documented herein.

B-3 Board Engineer's Review, dated March 6, 2026 (Review No. 3)

B-4 Board Engineer's Review, dated May 4, 2026 (Review No. 4)

B-5 Board Planner's First Memorandum, dated October 3, 2025

B-6 Board Planner's Second Memorandum, dated March 11, 2026

B-7 Board Planner's Third Memorandum, dated May 6, 2026

B-8 Board Attorney Memorandum of Law, undated⁶

⁶ The Memorandum of Law was prepared at the behest of the Land Use Board after the November 13, 2025 hearing date. Subsequently, the Applicant amended the application to abandon the request for "d" variance relief and for a certificate of pre-existing nonconforming use, pursuing "c" variance relief and design waivers *only*. Accordingly, the Memorandum was not relied upon by the Board in rendering a decision on the application, as amended in final form.