



**BOROUGH OF HIGHLANDS
COUNTY OF MONMOUTH**

LAND USE BOARD RESOLUTION 2024-15

**MEMORIALIZATION OF MINOR SUBDIVISION APPROVAL
WITH ANCILLARY VARIANCE RELIEF**

**IN THE MATTER OF KIRSH KRAFT, LLC
APPLICATION NO. LUB2024-04**

**Approved: July 11, 2024
Memorialized: August 8, 2024**

WHEREAS, an application for minor subdivision approval with ancillary variance relief has been made to the Highlands Land Use Board (hereinafter referred to as the “Board”) by Kirsh Kraft, LLC (hereinafter referred to as the “Applicant”) on lands known and designated as Block 57, Lots 8 & 9, as depicted on the Tax Map of the Borough of Highlands (hereinafter “Borough”), and more commonly known as 9 Fifth Street in the R-2.02 (Residential Zone) Zone; and

WHEREAS, a complete application has been filed, the fees as required by Borough Ordinance have been paid, proof of service and publication of notice as required by law has been furnished and determined to be in proper order, and it otherwise appears that the jurisdiction and powers of the Board have been properly invoked and exercised; and

WHEREAS, public hearings were held on June 13, 2024 and July 11, 2024, at which time testimony and exhibits were presented on behalf of the Applicant and all interested parties were provided with an opportunity to be heard; and

NOW, THEREFORE, the Highlands Land Use Board makes the following findings of fact and conclusions of law with regard to this application:

1. The subject Property contains a total of 5,431.30 square feet (0.125 acres) consisting of two (2) existing lots. Existing Lots 8 contains 603.60 square feet and existing Lot 9 (4,827.70 square feet). Both lots are located within the Residential 2.02 (R-2.02) Zone of the

Borough. The subject Property is situated along the southerly side of Fifth Street between Miller Street and Valley Street. Existing Lot 8 is improved with an unhabitable dwelling and existing Lot 9 is improved with a shed and a portion of the empty unhabitable dwelling which encroached from existing Lot 8. The existing lots are both non-compliant. The Applicant received a Zoning Denial Letter, dated May 13, 2022. A Notice of Unsafe Structure was also issued on April 12, 2024, by the Construction Department concerning existing Lot 8.

2. The Applicant is seeking minor subdivision approval to create the following two (2) new Lots:

- a. Proposed Lot 8.01 will contain 2,618 square feet;
- b. Proposed Lot 9.01 will contain 2,913 square feet.

3. The Applicant requires the following variance relief:

- a. **Chapter 21 – Attachment 1** – the minimum lot area is 4,000 square feet, whereas 603.60 square feet is existing for Lot 8 and 2,913 square feet is proposed for proposed Lot 8.01.
- b. **Chapter 21 – Attachment 1** – the minimum lot area is 4,000 square feet, whereas 4,827.7 square feet is existing for Lot 9 and 2,618 square feet is proposed for Proposed Lot 9.01.
- c. **Chapter 21 – Attachment 1** – the minimum lot frontage/width is 50 feet, whereas a lot frontage/width of 27.30 feet is existing for Lot 8 and 45.62 feet is proposed for Proposed Lot 8.01.
- d. **Chapter 21 – Attachment 1** – the minimum lot frontage/width is 50 feet, whereas a lot frontage/width of 59.52 feet is existing for Lot 9 and 41.00 feet is proposed for Proposed Lot 9.01.
- e. **Chapter 21 – Attachment 1** – the minimum lot depth is 75 feet, whereas 22.11 feet is existing for Lot 8 and 63.86 feet is proposed for Proposed Lot 8.01.
- f. **Chapter 21 – Attachment 1** – the minimum lot depth is 75 feet, whereas 63.86 feet is existing for Lot 9 and 63.86 feet is proposed for Proposed Lot 9.01.

- g. **Chapter 21 – Attachment 1** – the minimum front yard setback is 20 feet*, whereas 0.6 feet is existing for Lot 8 and a front yard setback of 10.00 feet is proposed for Proposed Lot 8.01.
- h. **Chapter 21 – Attachment 1** – the minimum front yard setback is 20 feet*, whereas 2.0 feet is existing for Lot 9 and a front yard setback of 10.00 feet is proposed for Proposed Lot 9.01.
- i. **Chapter 21 – Attachment 1** – the minimum side yard setback is 6/8 feet, whereas 0.3/-3.6 feet is existing on Lot 8 and 3(1)/4.3 feet proposed for Proposed Lot 8.01.
- j. **Chapter 21 – Attachment 1** – the minimum side yard setback is 6/8 feet, whereas 7.7/40.7 feet is existing on Lot 9 and 3(1)/6 feet proposed for Proposed Lot 9.01.
- k. **Chapter 21 – Attachment 1** – the minimum rear yard setback is 20 feet, whereas 1.2 feet is existing on Lot 8 and 15.0 feet proposed for Proposed Lot 8.01.
- l. **Chapter 21 – Attachment 1** – the minimum rear yard setback is 20 feet, whereas 41.6 feet is existing on Lot 9 and 15.0 feet proposed for Proposed Lot 9.01.
- m. **Chapter 21 – Attachment 1** – the maximum building coverage is 33%, whereas 89.28 feet is existing on Lot 8 and 40.03% proposed for Proposed Lot 8.01.
- n. **Chapter 21 – Attachment 1** – the maximum building coverage is 33%, whereas 9.74% is existing on Lot 9 and 47.52% proposed for Proposed Lot 9.01.

* Or the average of the existing front yard setback within two hundred (200) feet in the same block and zone, per Ordinance Section 21-79B. The prevailing setback shall be the average setback of buildings on the same block in the same zone, but not less than the average of the setbacks of the buildings on the two (2) nearest adjacent lots and in no case, less than half the required setback.

(1) Potential lot line.

June 13, 2024 Hearing

4. Counsel for the Applicant, Henry F. Wolff, Esq., III, Esq., stated that the Applicant was seeking minor subdivision approval with ancillary bulk variance relief. He then addressed an issue raised within the Board Engineer's Report seeking confirmation as to whether wetlands existed on the subject Property. Mr. Wolff represented that the subject Property did not contain any wetlands. The Board Engineer, Carmela Roberts, P.E., CME, CPWM, asked for the Applicant to provide a signed letter by a qualified wetlands expert.

5. Testimony was then taken from Trevor Kirsh, who identified himself as the owner of the Applicant. Mr. Kirsh explained that he had purchased the subject Property in 2016 with the intention to construct two (2) single-family dwellings. He stated that the existing structure encroached over the existing lot line while the westerly half of the subject Property was vacant. Mr. Kirsh further testified that he intended to demolish the existing structures, merge Lots 8 and 9, then subdivide the subject property into two (2) new lots. He noted, however, that the new lots required variance relief.

6. Mr. Kirsh further testified that the architectural plans for the two (2) future dwellings were drawn by Red Bank Modular architectural firm. He described the future dwellings as elevated based upon pilings with parking underneath and two stories above. Mr. Kirsh stated that the lower levels would also have break-away walls. He explained that he intended to live in one of the dwellings and relatives would live in the other dwelling. Mr. Kirsh also stated that the proposed development had encountered many delays. He stated that he temporarily lives in Long Branch but wishes to return to live within the Borough.

7. The Board recognized that a portion of the dwelling on Lot 5 encroached over the subject Property line and asked if the owner of adjacent Lot 5 was present. Mr. Wolff stated that he had provided notice to the owner of Lot 5 as required by the Municipal Land Use Law (MLUL), but had not received a response and had not reached out to the owner of Lot 5 by any other means. The Board expressed its concern that the encroachment would negatively impact the proposed subdivision and questioned the impact any future changes to the structure on Lot 5 would have on the subject Property. Mr. Wolff represented that aerial maps dating as far back as the 1960s depicted the existing structure on Lot 5 as it currently exists with the encroachment onto the subject Property. He stated that the owner of Lot 5 may have prescriptive rights to the encroachment. He also stated that the encroachment created a hardship in support of the proposed variance relief with the proposed subdivision.

8. The Applicant's Engineer, Walter Hopkin, P.E., first addressed the issue regarding the Board Engineer's Report requesting written confirmation regarding the absence of wetlands on the subject Property. He explained that his office had not prepared such written certification by a wetlands expert in anticipation that such certification would be subject of a condition of approval. Mr. Hopkin also stated that while he was not a wetlands expert, another professional from his office would prepare such a certification for the next hearing.

9. Mr. Hopkin proceeded to identify the subject Property as Block 57, Lots 8 & 9, with the address of 9 Fifth Street located within the R-2.02 (Residential Zone) Zone. He testified that the subject Property contained a total of 5,431 square feet and consisted of two (2) lots. Mr. Hopkin explained that one existing lot contained approximately 600 square feet while the other

contained approximately 4,800 square feet. He stated that an existing structure and a shed currently existed on the subject Property over the lot line.

10. Mr. Hopkin further testified that the subject Property included ten (10) existing non-compliant conditions. He also stated that the dwelling on adjacent Lot 5 encroached upon the subject Property. Mr. Hopkin explained that the Applicant was proposing to grant an easement to the adjacent Lot 5 to permit the contained encroachment. He also stated that the proposed setbacks were based upon the proposed easement, not the actual property line. Mr. Hopkin further testified that the two (2) proposed future dwellings would be similar in size with footprints of approximately 1,200 square feet. He also represented that each dwelling would have a two-car garage.

11. Mr. Hopkin next addressed the proposed setbacks of the new dwellings. He stated that the minimum front yard setback of both dwellings would be 10.0 feet, whereas a minimum of 20.0 feet or the average of the existing front yard setbacks within 200 feet of the same block and zone was required. Mr. Hopkin explained that the side yard setback of proposed Lot 8.01 would be 3.0 feet to the proposed easement and 4.3 feet to the proposed lot line. He also stated that the side yard setback of proposed Lot 9.01 would be 3.0 feet to the proposed lot line and a conforming 6.0 feet to the westerly lot line. He stated that the proposed rear yard setback would be 15.0 feet for both proposed Lots 8.01 and 9.01, whereas a minimum of 20.0 feet is required. He also stated that the proposed heights would be conforming.

12. Mr. Hopkin further testified that the Applicant was seeking variance relief for lot area, where a minimum of 4,000 square feet is required, and 2,913 square feet and 2,618 square

feet were being proposed for Lot 8.01 and 9.01, respectively. He also stated that variance relief was required for lot width, where a minimum of 50 feet was required, whereas 45.62 feet and 41.00 feet was proposed for proposed lots 8.01 and 9.01, respectively. Mr. Hopkin further testified that variance relief was required for maximum building coverage, where a maximum of 33% is permitted, and 40.03% and 47.52% were proposed for proposed lots 8.01 and 9.01, respectively.

13. Mr. Hopkin explained that he would agree to comply with the technical comments contained within the Board Engineer's Report. He also testified that the lot area was below the threshold in order to require CAFRA permits. Mr. Hopkin opined that the proposed frontages were in character with the surrounding area.

14. The Applicant's Planner, John Taikina, P.P., AICP, first addressed the dwelling on Lot 5 and its encroachment onto the subject Property. He stated that historical data from NJDEP and private aerial photos depict the encroachment. Mr. Taikina explained that he did not find any information concerning the title search or through Open Public Records Act (OPRA) requests. He stated that an aerial photo from 1956 clearly depicted the encroachment. Mr. Taikina also stated that aerial photos from 1941 and 1945 were not clear enough to distinguish whether the dwelling encroached upon the subject Property. He further explained that the portion of the dwelling of Lot 5 that encroached upon the subject Property was a one-story shed-like addition to the rear of the dwelling. Mr. Taikina stated that the remainder of the Lot 5 dwelling was a residential three-story, three-family dwelling. He explained that the shed-like addition on the rear of the Lot 5 dwelling was eight (8) feet from the rear façade of the dwelling and encroached

7.3 feet onto the subject Property. Mr. Taikina stated that a prior survey depicted the encroachment to be 1.5 feet.

15. Mr. Taikina also stated that such encroachments were not uncommon in historic towns, such as the Borough. He believed that the encroachment was unlikely to be changed anytime in the near future because the existing three-family dwelling was an existing non-compliant use. Mr. Taikina speculated that the owner of Lot 5 would want to maintain the existing non-compliant use, therefore would not be interested in making changes to the dwelling that would risk forfeiting any vested rights. He also stated that the Lot 5 dwelling would have to be raised in order to comply with the latest flood zone requirements as a result of any improvements. Mr. Taikina further testified that the Applicant was proposing to alleviate the encroachment by granting an easement to the benefit of Lot 5.

16. In response to questions from the Board, Mr. Taikina testified that the structures would be spaced sufficiently apart in order to comply with building code, which was at least five (5) feet.

17. Mr. Taikina further testified that an easement was a better solution than the existing encroachment. He stated that an easement agreement would require that any changes made to the dwelling on Lot 5 would require the encroachment to be discontinued and that any improvements to Lot 5 remain upon Lot 5. Mr. Taikina testified that the subdivision did not require "d" variance relief for two (2) principal structures on a single lot for Lot 8.01 because the easement remedied such use.

18. Mr. Taikina next testified that the Applicant was proposing two (2) lots. He stated that the center property line would be slightly offset from a center line in order to provide sufficient space for the easement. Mr. Taikina explained that the Applicant was proposing to construct in the future two (2) single-family dwellings each with a width of thirty (30) feet and thirty-two (32) feet, respectively. He opined that the proposed dwellings would fit within the character of the area.

19. Mr. Taikina further testified that the variance relief could be granted under the c(1) hardship criteria. He stated that the lot depth was existing and was not possible to change. Mr. Taikina explained that the front and rear setbacks were also a result of the lot depth. He noted that the ordinance for the front yard setback required a minimum of 20.0 feet or an average of the adjacent dwellings within 200 feet. Mr. Taikina testified that the average front yard setback was 16.1 feet, thereby reducing the impact of the variance relief. He also stated that the Applicant was proposing a setback of 10.0 feet for both proposed dwellings. Mr. Taikina stated that the immediately front yard setbacks of the immediately adjacent properties were 3.6 feet and 4.5 feet.

20. Mr. Taikina further testified that the proposed rear yard setback would be fifteen (15) feet. He explained that when considering the percentage that the lot depth is reduced by, which was 84%, and applying it to the rear yard setback requirement, the rear yard setback would only be required to be 16.2 feet. He also stated that the rear yard setback of the adjacent lots to the rear were very deep, thereby mitigating the proposed rear yard setbacks.

21. Mr. Taikina also stated that the proposed side yard setback to adjacent Lot 10 was conforming. He explained that the existing side yard setback of Lot 10 was non-compliant along the mutual property line with the subject Property. Mr. Taikina further testified that the side yard setback to the internal property line would be three (3) feet each, thereby creating six (6) feet of separation of the proposed dwellings. He stated that the setback to adjacent Lot 7 would be 12.0 feet, but the setback to Lot 5 was 4.3 feet as measured from the easement line.

22. Mr. Taikina further testified that the requested variance relief would provide adequate light, air, and open space. He stated that Lang v. North Caldwell permitted the construction of a normal dwelling in spite of being a narrow lot. He explained that the width of the dwellings was necessary in order to provide sufficient space for a two-car garage and the length of the dwellings was necessary to provide additional storage at the rear of the garage.

23. Mr. Taikina also opined that the variance relief could be granted under the c(2) flexible criteria. He stated that the lot area, lot frontage, and maximum building coverage could be granted as c(2) variances. He stated that the proposal was appropriate and a better plan to construct two (2) normal dwellings with adequate parking.

24. Mr. Taikina identified a total of fifteen (15) variances which were being requested. He stated that while the total number of required variances might be high, ten (10) non-compliant conditions already existed on the subject Property. Mr. Taikina again opined that the proposed dwellings would fit within the character of the neighborhood.

25. Mr. Taikina further testified that the proposal advanced several purposes of the MLUL. He stated that the proposal provided sufficient space in an appropriate location for two

(2) single-family dwellings. Mr. Taikina also stated that the proposal promoted a desirable visual environment. He stated that the proposal was an efficient use of land.

26. Mr. Taikina next introduced a Proximity Lot Analysis Map dated June 13, 2024 as Exhibit A-1. He explained that three (3) types of properties were marked on the Exhibit. Mr. Taikina first identified twenty-nine (29) lots in the R-2.02 Zone which were located in the area. He then stipulated that five (5) conforming lots existed, six (6) undersized lots and undersized frontages also existed, and eighteen (18) lots that with smaller lot areas and lot frontages than the proposed lots.

27. Mr. Taikina further testified that the grant of variance relief would not result in any substantial detriment to the public good. He stated that the front setbacks would be more compliant than some in the area, and that the proposal provided parking. He opined that the grant of variance relief would not result in any substantial detriment to the zone plan or master plan. Mr. Taikina stated that the zone itself impaired the area because the R-2.02 Zone did not meet the character of the area. He highlighted that many lots in the area existed prior to the adoption of the zoning ordinance. Mr. Taikina further testified that the proposed lots conformed with the character of the area. He again stated that there were only five (5) lots in the surrounding area that conformed with the R-2.02 standards. Mr. Taikina stated that the lots across the street were in a different zone and were waterfront.

28. Mr. Taikina further testified that the proposal created lots which better conformed with the surrounding area. He stated that the proposed easement was also not unreasonable.

29. In response to questions from the Board, Mr. Taikina acknowledged that the immediately adjacent lot to the west was conforming. He stated that historically, the subject Property had been two (2) lots with two (2) dwellings. Mr. Taikina also stated that the existing Lots 8 and 9 had not been merged by common ownership because Lot 8 was owned by Mr. Kirsh personally and Lot 9 was owned by the Applicant.

30. In response to questions from the Board Attorney, Mr. Taikina testified that the dwellings would be compliant in regard to Residential Site Improvement Standards (RSIS) and the Borough ordinance requirement for two (2) parking spaces per four-bedroom dwelling.

31. In response to questions from the Board Engineer, Mr. Taikina stated that the 2021 survey depicted the subject Property to be a rectangle. He also stated that if there were a dispute with the adjacent Lot 5 regarding the lot line, and that the County Board of Surveyors would adjudicate the dispute and override any lot lines approved by the Board, if necessary. He stated that the lot line being created would not be impacted by any dispute with adjacent Lot 5.

July 11, 2024 Hearing

32. Mr. Wolff provided an overview of the previous testimony. He stated that “d” variance relief was not necessary because the second dwelling was only partially on the subject Property and would be contained within an easement. He also stated that the easement agreement would contain a condition requiring any renovation to the Lot 5 dwelling also include the elimination of the encroachment.

33. Mr. Wolff further summarized the Applicant's Planner's testimony as to the justification for the variance relief. He stated that the encroachment was a hardship creating the need for some of the variance relief. He also reiterated that any dispute regarding the accuracy of the property line with Lot 5 would be referred by the County Board of Surveyors.

34. In response to questions from the Board, the Board Engineer, Ms. Roberts confirmed that the Board had received the wetlands certification as requested and that there were no issues regarding wetlands on the subject Property.

35. 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 minor subdivision approval pursuant to N.J.S.A. 40:55D-47 along with ancillary variance relief pursuant to N.J.S.A. 40:55D-70c should be granted in this instance.

The Board first addresses the question of whether "d" use variance is necessary. A Zoning Board of Adjustment or combined Planning/Zoning Board of Adjustment may grant relief to permit a principal structure in a district restricted against such principal structure pursuant to N.J.S.A. 40:55D-70d. The Applicant had provided sufficient notice that includes the alternative request for "d" use variance for two (2) principal structures. The Board, therefore, finds that it has jurisdiction

to grant said relief. However, the Board finds it unnecessary to grant relief for two (2) principal structures. The Board finds that the Applicant has presented convincing testimony that “d” use variance is unnecessary. The Board specifically finds that the second principal structure on Lot 8.01 is a portion of the principal structure on Lot 5 which encroaches upon the subject Property. The Board finds that the Applicant has proposed to grant an easement, which will contain the encroaching second principal structure. The Board also finds that the Applicant has proposed an easement agreement which would require the second principal structure to be removed from the subject Property if any renovations were to be performed on the second principal structure. The Board finds that two (2) principal structures will not remain in perpetuity and the Board recognizes the non-conformity will exist so long as the second principal structure is not improved. Therefore, the Board finds “d” use variance for two (2) principal structures is unnecessary.

The Board finds that the Applicant has proposed a minor subdivision which requires ancillary 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 ancillary and other non-use related issues when the applicant satisfies certain specific proofs which are enunciated in the Statute. Specifically, the applicant may be entitled to relief if the specific parcel is limited by exceptional narrowness, shallowness or shape. An applicant may show that exceptional topographic conditions or physical features exist which uniquely affect a specific piece of property. Further, the applicant may also supply evidence that exceptional or extraordinary circumstances exist which uniquely affect a specific piece of property or any structure lawfully existing thereon and the strict application of any regulation contained in the Zoning Ordinance would result in a peculiar and exceptional practical difficulty or exceptional and undue hardship upon the developer of that

property. 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, an 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 pursuant to the flexible c(2) standard codified at N.J.S.A. 40:55D-70c(2). The Board finds that the existing two lots are under separate ownership and are improved with a dilapidated single-family residence which encroaches over the property line. The Board finds that the proposed subdivision will permit the construction of two (2) new attractive single-family dwellings which will eliminate the encroachment. The Board finds that this will promote a desirable visual environment not only for the Applicant, but for the entire neighborhood. The Board further finds that the Applicant has proposed population densities which comply with the Ordinance requirements. The two (2) new proposed lots will also fit the character of the prevailing neighborhood scheme. The Board

therefore finds that the grant of variance relief will promote the goals of planning enumerated at N.J.S.A. 40:55D-2. The positive criteria has therefore been satisfied.

The Board further finds that the Applicant has also satisfied the negative criteria. The proposed dimensions of the proposed lots will be similar to the dimensions of other lots in the neighborhood. The subdivision will also not result in increased traffic, noise or noxious odor beyond what is contemplated by the Ordinance. The Board also finds that the rear yard setback is mitigated by the rear yard setbacks of the adjacent properties which exceed the minimum requirements. The Board therefore finds that the grant of variance relief will not result in substantial detriment to the public welfare or substantially impair the zone plan or zoning ordinance. The negative criteria has therefore been satisfied.

The Board concludes that the positive criteria substantially outweighs the negative criteria and that variance relief may be granted pursuant to N.J.S.A. 40:55D-70c(2).

With the exception of the above relief, the Applicant complies with all other zoning, subdivision and design criteria ordinance requirements. Minor subdivision approval pursuant to N.J.S.A. 40:55D-47 is therefore appropriate.

NOW, THEREFORE, BE IT RESOLVED by the Land Use Board of the Borough of Highlands on this 8th day of August 2024, that the action of the Land Use Board taken on July 11, 2024 granting application no. LUB2024-04, for minor subdivision approval pursuant to N.J.S.A. 40:55D-47 along with ancillary bulk variance relief pursuant to N.J.S.A. 40:55D-70c(2) is as follows:

The application is granted subject to the following conditions:

1. All site improvement shall take place in strict compliance with the testimony and with the plans and drawings which have been submitted to the Board with this application, or to be revised.
2. Except where specifically modified by the terms of this Resolution, the Applicant shall comply with all recommendations contained in the reports of the Board professionals.
3. The Deed recorded memorializing this subdivision shall specifically refer to this Resolution and shall be subject to the review and approval of the Board Engineer and Board Attorney. The Applicant shall record the Subdivision Plat or Deed within 190 days of the memorializing Resolution being adopted. Failure to do so shall render this approval null and void.
4. All easements shall be depicted on the Subdivision Plan.
5. The proposed new homes shall not exceed the height requirements for the Zone.
6. The Applicant shall return to this Board for an amended approval if the property line dispute with adjacent lot 5 results in a change in the size of the lots created by this approval, intensifies any variance relief or creates any new relief.
7. The separation between buildings shall comply with all building code requirements.
8. Each new home shall have a two-car garage.
9. The Applicant shall confirm that each new lot can be serviced by utilities without the need for easements over adjacent properties. The Applicant shall provide such draft easements for the review and approval of the Board Engineer and Board Attorney if such easements are necessary.
10. The Applicant shall comply with all applicable affordable housing requirements.
11. The Applicant shall submit the easement and easement agreement with adjacent Lot 5 subject to review by the Board Attorney.
12. 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.

13. 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:
ABSENT:
DATED:

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 August 8, 2024.

Nancy Tran, Secretary
Borough of Highlands Land Use Board