

**HIGHLAND PARK PLANNING BOARD
MINUTES
July 14, 2022 @ 7:30 P.M.
Council Chambers, Borough Hall
221 South Fifth Ave. Highland Park, NJ
Via Zoom**

Call to Order

The meeting was called to order by Chairperson Rebecca Hand at 7:30 pm. Annual Notice of this meeting was provided to the Star Ledger on January 29, 2022 and to the Home News Tribune on January 29, 2022. In addition, notice of this meeting via zoom was faxed to the Home News Tribune and emailed to The Star Ledger and the Highland Park Planet on July 12, 2022, and was posted on the Borough website at www.hpboro.com and on the bulletin board and doors at Borough Hall, 221 So. Fifth Avenue, Highland Park, NJ on July 12, 2022, and has remained continuously posted as required by law.

Roll Call:

Present	Rebecca Hand, Scott Brescher, Alvin Chin, Khahlidra Hadhazy, Matthew Hale, Padraic Millet, Jeffrey Perlman, Daniel Stern Cardinale, Allan Williams
Absent	Paul Lanaris, Bruce Koch, Engineer
<u>Board Professionals</u>	Eric Douglas, Esq., Chris Cosenza, Planner

Action on Any other business:

Appointment of New Board Clerk – Tania Varela

Motioned by Khahlidra Hadhazy and seconded by Padraic Millet. All in favor, Motion passes. Ms. Hand welcomed Ms.Varela as the new board clerk.

Consistency Review: Concerning the Borough of Highland Park Affordable Housing Program and Amending Chapter 230 of the “Code Of The Borough Of Highland Park” Concerning Deed Restricted Control Periods and Mandatory Set-Aside Requirements.

Ms. Hand noted that she believes the members of the board have had the opportunity to receive and review the proposed amendments. The Board’s role is to review these proposed changes and determine whether or not they are inconsistent with the master plan and more specifically, that they are not inconsistent with the master plan. Anyone needing guidance on where they can find the master plan, it’s located at hpboro.com under the tab government, sub tab planning and zoning and there’s a link to the master plan and its re-examination reports.

Ms. Hand opened the meeting to the board for discussion. She noted that she had some technical comments. There are several times in the proposed language where it’s referred to the borough or the borough planning/zoning board. There are combined boards in some towns, but we have two distinct boards. The language should just be fixed to reflect the fact that we have two distinct boards. She noted that on page two, paragraph b at the third line up from the big paragraph, there’s a reference to FSHC. For those of you following along with the drama of the litigation the borough has been undertaking you might know what that stands for. The full name should be spelled out there for reference if it’s going into the code. She had a similar comment lower down for COAH and UHAC, but far less concerning since most people who are reading these code sections would know what those are referring to. She thinks FSHC probably needs a little bit of expansion.

It was MOVED by MILLET and seconded by STERN CARDINALE that this ordinance is not inconsistent with the Master Plan.

ROLL CALL: Ayes – Brescher, Chin, Hadhazy, Hale, Millet, Perlman, Stern Cardinale, Williams,
Hand.
Nays – None

There being nine (9) ayes and no nays, motion passed.

Consistency Review: Amending Chapter 230, Land Development Concerning: Parking Regulations for All Zoning Districts; and Bulk Regulations and Residential Design Standards for Single-and Two-Family Dwellings.

Planner Cosenza did a presentation on the proposed changes to the ordinance. The end goal is for the board to make a finding that the proposed ordinance is not inconsistent with the master plan. The ordinance is a direct extension and convection of the recommendations contained in the master plan. For those who worked with us on the 2019 master plan and land use plan element update, you will find this presentation very familiar. It is important to remind ourselves that the goal to have some sort of design standard to improve infill housing has been in place for almost 20 years as it was a short-term goal of the master plan back in 2003. We did have an opportunity to revisit this topic in 2019 and explore it further. As a planner, it was important for us not to just dive into the recommendations because it should be rooted in an analysis and understanding of the needs of the community. As the planners for the community since 2016, we now have a pretty good understanding of the zoning ordinance requirements and the issues that the community is facing. We did an analysis of the zoning map and, of course, as part of the master plan effort, we created this new beautifully colored map. Using this as a base map, this allowed us to isolate what is going on with the RA and RB districts, which are the predominant residential zoning districts in Highland Park. What we found was that about two out of every five lots in Highland Park are not conforming, almost 40%, which is pretty a challenging and daunting issue to address. We contemplated some strategies to address those issues without having to create new zoning districts, which would months or years to resolve and do what is appropriate for each neighborhood. What is unique in Highland Park is that you have one zoning district with the same regulations for all of these lots. However, this clearly created an issue, as certain neighborhood patterns showed larger lots would accommodate larger homes, while smaller lots would have homes that were snug and fit in well in places like on Graham Street and on Johnson Street, almost all of them do not comply with the zoning requirements. One of the recommendations that came out of the master plan was to recalibrate the bulk regulations and the thought was to take a look at the side yard setback requirements, coverage controls, especially when it came to smaller lots. These were also issues that the zoning board raised in their review of just a few applications that came before that board. Our suggestion was to rethink the bulk regulations in addition to the design standards themselves. As such, the ordinance before you is in two parts. Part one is the written document with about 20 pages of what we call “housekeeping” amendments. Part two is the graphic-based residential form-based code. In part one, we are relocating certain standards from performance standards into the zoning section and deleting the provisions pertaining to attached garages. The provisions pertaining to attached garages will live on in a different form in the residential form-based code. An issue came up during the council introduction that pertains to the residential parking requirements. The Residential Site Improvement Standards (“RSIS”) have been in place since 1997, which supersedes any municipal regulation on residential parking. This ordinance cleans up the current ordinance by removing the two parking spaces that are required within each of the zoning districts because that isn’t in play. Highland Park is not the only town who left the old regulations in the code. Another housekeeping item was removing references to the RC zone because it does not exist. We also looked at cleaning up the zoning schedule. Supplementary zoning provisions include other zoning requirements to allow us to consider and approve permitted projections. Right now the current ordinance does not allow porches to project into a yard. The front yard setback is measured to the porch, which is unusual. Municipalities often allow front porch projections into yards. The ordinance also

relocates the height exemptions and addresses the water table issue. Currently, we ask applicants that go to the board for subdivisions that you have to keep the basement one foot above the seasonal high water table. This ordinance codifies it for all new construction and additional provisions were included to make sure the houses do not shoot out of the ground to avoid the water table. Driving around neighborhoods you can see that most homes are about three to four feet above the ground. On average, the typical condition is not more than four feet. We also relocated and expanded exemptions from non-conforming conditions, including under-sized lots, non-conforming side yard setbacks, coverage and height. There are situations where many homeowners need a variance for such a small improvement. The goal is to allow for modest additions to be approved without the need for a variance, so long as it does not make a non-conforming condition worse. For front yard setbacks, instead of 20 feet, this should be responsive to your neighborhood and the historic development pattern which is to be generally in line with your neighbors, but allow flexibility of one or two feet. We also included a minimum baseline, as we do not want houses to get too close to the street. This ordinance also addresses the 10 foot side yard setback requirement, for narrow lots. For example, anything less than 60 feet, you no longer have to comply with ten feet. The side yard setback will now be proportional to your lot width, which is the pattern that we saw when we studied the zoning patterns. This ordinance provides a lot more flexibility and will not trigger as many variances and allows for new construction to be more consistent with the pattern found on the street. The ordinance increases the permitted impervious coverage for small lots. Right now it's 40 percent and it will increase to 45 percent. The ordinance actually reduces coverage on the large lots where there is otherwise plenty of space. However, if any large lots are now faced with a variance condition, they can utilize the non-conforming coverage provision to avoid the variance. As to where we landed on exemptions to impervious coverage, this ordinance will provide exemptions for HVAC equipment, porches, decks, detached garages and pervious/patio paving, altogether to not exceed 500 square feet. There will be no limit for accessible ramps. We do not think there should be a need for variances whenever there is a need for an accessible ramp, and that applies to setback requirements as well. Part two is the graphic-based residential form-based code. Not much has changed in terms of the graphics other than color coding it different, relative to the those graphics contained in the master plan. As you are aware from the presentation back in January it was mainly to address the orientation of the dwelling and provision of sidewalks, front wall and side wall lengths as well as articulation, meaning minimum fenestration. In other words, a minimum number of windows to avoid blank walls. The pattern of existing historic construction in the Borough and in many communities throughout the country is that there are windows on side walls. This makes infill housing become more consistent with the historic construction by requiring some sort of minimum fenestration. We also addressed garage location and design and had some provisions for landscaping and tree plantings. The current ordinance does not have minimum standards, so an applicant could propose two new homes on a subdivision with no landscaping whatsoever and that is not consistent with the Borough's historic pattern. There are minimum standards, but the ordinance does not go into what it must look like. We also addressed accessory structures and mechanical equipment. We now have provisions to allow for small sheds to be set back just three feet, which we found is a reasonable standard. If they are larger, then they will need to be set back five feet. The ordinance provides reasonable setbacks for HVAC equipment, including not in the front yard, a few feet set back from the side yard so it doesn't negatively impact neighboring property owners. The models and the simple graphics help illustrate what the regulations are talking about. That way, there is no misinterpretation and it also helps explain their intents. On the left is what you currently have in the ordinance, and is just a wall of text. On the right is what is proposed, containing simple text coupled with some models. Relative to the graphics contained in the master plan, the main changes are increased text size so that it is more accessible and changes in the color and use the color overlays to help more clearly illustrate the graphics. We use the color overlays to help emphasize the topic. Ultimately, these are codifications of what we put in the master plan and what we have tested with builders who needed variances and that the Planning Board in almost all cases approved. He thinks that this a culmination of that effort, but this is really just the first step of a series of corrections and changes that we are going to make. There are a lot of other things we want to change in the ordinance and this is a big first step.

Mr. Chin commented that he appreciates that Highland Park is moving forward with the form-based code. He asked about implementation of the form-based code and what his experience was with the change in another municipality. Planner Cosenza noted that it is difficult to do a form-based code because in many cases you're trying to design a building with aesthetics in mind. You can not do that for single-family and two-family homes pursuant to the Municipal Land Use Law - single-family and two-family homes are exempt from site plan review. We prepared similar codes in Princeton, Metuchen and then Highland Park, the communities that we have worked in, and found that the provisions that we are writing really function as customized bulk regulations. We have gotten buy-in from the attorneys in the other communities basically saying that you can do this. That is how we are able to get it done in Princeton and now in Highland Park. As far as getting community buy in, this was part of the master plan effort. We prepared and showed the analysis, determined that we needed to fix the ordinance and the models help illustrate the new provisions. Mr. Chin asked about accessory structures and wanted to know if it was clear that it does not include dwellings. Planner Cosenza noted that the Borough does not have a provision allowing for accessory dwellings. Certainly that's a topic that the council could explore, but when that is discussed that can be coupled with the discussion on accessory structures. There is no room for misinterpretation of accessory structures as being used for residences. Councilman Hale noted that the accessory structure regulations that they put forth a couple of years ago were very explicit about not including accessory dwellings. You cannot have plumbing for a toilet or a shower, but you could have a sink. He asked Mr. Chin if his question was whether or not when Princeton or Metuchen did this, if there was an increase in people's attempts to do things to their houses. Mr. Chin noted that he was mainly interested not in the development of the code but in how once the code was adopted, how people reacted when they were builders or neighbors of people who were having building done. Planner Cosenza commented that he does not want to paint builders in a bad light, but generally they have a couple of architects and they have a few house plans that they use over and over again. When there is a change in the regulations, they will make a change to their house plans and use those over and over again. In Princeton, there was a lot of interest in the code and many architects and builders who came to the public meeting, saw that there were models to explain what it was we were doing, and almost all of them came away with the feeling that it was great. It has been well supported as far as generating interest to develop. In Metuchen what we realized was that, as a zoning official himself, he was effectively approving variance applications through the exemption built into the ordinance. Over the years, many homeowners and builders do not realize that they were having that benefit. Once he went back and reviewed the permits, he made a determination that hundreds of property owners were able to make additions, modest additions to their homes without the need for variances. You can never know how many would not have done a certain project if they thought they needed a variance and in many cases, like in Highland Park, you do not know how many people do not bother to construct an addition because there is a perception that the ordinance is too cumbersome to deal with. We are hoping that this will tap the development potential, but we need to keep an eye on it. If there is too much development, we need to look at it again and see what the impacts are. When you try to make things easier, you also need to be careful with gentrification.

Mr. Perlman wanted to clarify that the requirements for the form based code is for new residential construction single or two family homes. Planner Cosenza noted that the ordinance is applicable to new construction as well as large additions. The provision in the ordinance say that in the case of an application involving reconstruction of an addition less than 500 square feet, certain standards can be waived at the determination of the zoning official or the board. What that is intended to do is to allow for those homes that are not conforming to the new form base code to not trigger those requirements and therefore variances. Mr. Perlman asked about the ordinance allowing someone to pay into the tree fund if they could not plant trees. Planner Cosenza noted that at the end of the street tree section they defer to Chapter 388, tree removal protection. Mr. Perlman noted that he thinks it should be made clearer in the ordinance that there is a way that if you cannot meet the tree provision you can pay in the tree fund.

Ms. Hadhazy asked about contributing to the deficit of trees elsewhere in the Borough if you take down a tree and you're not able to replace the tree on your property. Planner Cosenza noted that that is the intent and that is what the last section of both the shade tree and street tree requirements under n and o of the form based code is intended to allow. That is why it is referring to chapter 388, because it is addressed there.

Mr. Stern Cardinale commented that he is a stickler for graphic design and he appreciates the use of high contrast colors. It made everything really easy to follow.

Ms. Hand commented that she really appreciated that he incorporated their feedback regarding maximum height from grade level. That was something the board who had approved previous applications were particularly concerned about. She thinks the four feet is a great suggestion for that. She also appreciated how he approached the impervious coverage, especially with regard to the smaller lots. For everyone who took the stormwater training information and how important it is to have pervious areas to allow for efficient stormwater draining but we do have to balance that with the needs of our smaller lot owners, non-conforming lots. We want them to be able to continue to improve their properties without being encumbered by too much red tape. She appreciated both those inputs. She thought they were good suggestions on how to approach those and good compromises.

Mr. Millet noted that he appreciates the cleaning up of the housekeeping section. He thinks that will save people a lot of time and effort when they are trying to make modest improvements to their homes.

Ms. Hadhazy commented that she appreciates the sliding scale and not just hard numbers when it comes to the different sized lots and the fact that Highland Park has so much architectural diversity and diversity in lot sized that it will open up the possibilities to more homeowners and make it easier and more approachable for people. Planner Cosenza noted that when he looked at a neighborhood and looked at the ordinance, not all houses are centered on a lot and in many cases they are shifted over with a driveway on the side. The current ordinance did not allow you to do that, so hopefully this ordinance addresses that.

Ms. Hand opened the meeting to the public. There being no public present wishing to speak, public comment was closed.

It was MOVED by HALE and seconded by CHIN that this ordinance is not inconsistent with the Master Plan.

ROLL CALL: Ayes – Brescher, Chin, Hadhazy, Hale, Millet, Perlman, Stern Cardinale, Williams,
Hand.

Nays – None

There being nine (9) ayes and no nays, motion passed.

Correspondence and reports.

Zoning/Building Officer report – Scott reported that for the houses on Cleveland Avenue, he brought in his permits. We are doing a review on those. He believes that Chris got those as well. We finally got the plans for the school at the end of Cleveland Avenue. We are still doing some plan review on that, but they are going to start pouring the footings and foundations over there and they probably will not do any of the actual construction until September. Ms. Hand noted that she was surprised that it has taken them this long. They were really gung-ho on getting everything through and then they disappeared for six months. Mr. Brescher noted that part of the problem was getting the steel for building. It was pretty much

backlogged and then he heard that Amazon backed out of a couple of warehouses so that freed up a lot of steel and now he can actually move along. Ms. Hand noted that she is glad to hear things are moving along on Cleveland Avenue, although she is afraid to assume that means the environmental issues were properly reviewed. Mr. Williams commented that he thinks the people who buy the houses will be okay.

Board discussion of status and implementation of prior matters – Ms. Hadhazy noted that there were two houses on South 7th Avenue that were presented to the Board that were going to be built on a lot that was split. It was a double lot and it was subdivided. She has noticed that the houses do not look anything like what was presented to the Board originally. Instead of the houses that we were presented with, they changed their mind and decided to go with modular homes that were brought in and they look beautiful. She asked if it is okay to just change your plans like that. Planner Cosenza noted that was an issue in the beginning because the builder who originally wanted to do the subdivision got a bunch of variances, but the variances were not related to the subdivision itself; they needed variances for the construction of the houses. Once the approvals were granted and the deeds filed for the subdivision, they were sold and the new homebuyers decided to go in different directions so we had to restart the review. The opinion he had given when he talked to the new home buyers was that if you need variances for a different house design, they need to come back to the board. He thinks by that time they already had settled on modular. Once the zoning official confirmed that no new variances were needed despite it being different from the plan approved by the board, it went to the zoning office and construction for approvals. Ms. Hadhazy commented that the houses are very modern and don't look like anything in the neighborhood and it is not what the neighbors saw when they saw the original plans presented. The neighbors thought they were getting two houses that kind of blended in, instead there are two houses that don't blend in at all. Planner Cosenza clarified that if the board had approved a subdivision that needed variances for the subdivision itself he would have made the determination that any changes at all to the house design would have to come back to the board. He and Attorney Thomas spoke about the fact that since the subdivision itself was conforming, it would be no different than any applicant going to the board for a lot subdivision, no houses, and then each lot be sold and constructed with modular homes. They spent a lot of time trying to determine whether or not they needed to go back to the board but we ended up making a determination that it did not need to.

Ms. Hand commented that the new buyers took their conforming subdivision, abandoned the variance approved building plans and went for a building plan that didn't need variances.

Mr. Perlman commented that when the planning board looks at subdivisions and we see a rendering that has an elevation that shows some architecture and it's entered as an exhibit and the applicant talks off of it but they are not making commitments unless they say otherwise. They are not making commitments to build based on that elevation or illustration. Planner Cosenza noted that for the situation on South 7th Avenue when there were no variances for the subdivision they could present whatever they want for the houses and it really doesn't matter. If there are variances needed for the subdivision or they have proposed a house design that needs different variances, that would still need to come back to the board because it is not quite what the board approved.

Ms. Hadhazy commented that she thought that part of having the public come and give their feedback, especially people who live in the neighborhood and who want to see the look of the neighborhood improved by new construction and not necessarily have construction that detracts or makes the neighborhood unattractive. She takes a little bit of issue with that. It is kind of like a bait and switch, especially in a neighborhood like South 7th Avenue that has not seen any new construction in 40 years. Mr. Cosenza noted that from a planner's perspective, they couldn't make them come back to the board once they eliminated all the variances.

Ms. Hand asked whether there are things in the new form-based code that would have mitigated some of the new design impacts. Planner Cosenza noted they are only dealing with bulk regulations and not aesthetics. If someone were to propose a modular home that happened to fit with our new form-based code, there is no reason that we could or should deny it.

Mr. Hale asked if there's a notification requirement when something is sold like that. Planner Cosenza confirmed that there is no notification process. The only notification is through the application process.

Mr. Perlman asked for the status of the redeveloper agreement and site plan approval for the two existing dwellings near the Sunoco property. Planner Cosenza noted that there is still the issue of where to locate the parking. Mr. Hale noted that they have decided that they are interested in doing some off-site parking. Mr. Perlman asked if they had site plan approval. Mr. Hale noted that he thinks they had site plan approval for 16 units but redevelopment allowed them to go up from that. He does not think they have approval for more than the 16 units. Mr. Perlman commented that the Borough needs the housing now and he asked if there's a timeline for having to build a project.

Public comment on any item not on the agenda – None.

Adjournment

There was a motion to adjourn from WILLIAMS and a second by PERLMAN at 8:30 pm the meeting was adjourned.

Respectfully submitted,

Tania Varela
Board Clerk