

**BOROUGH OF HARVEY CEDARS
LAND USE BOARD**

**Regular Meeting – Minutes
November 15, 2018**

A Regular Public Meeting of the Land Use Board of the Borough of Harvey Cedars was held in the Meeting Room in the Borough Hall, 7606 Long Beach Blvd., Harvey Cedars, New Jersey on the above date.

The meeting was called to order by Chairman Robert Romano at 7:00 PM. The Chairman asked all to rise for the Pledge of Allegiance.

Chairman Romano made the following announcement: “This is a regular meeting of the Harvey Cedars Land Use Board, notice of which was duly posted on the Bulletin Board in the Municipal Clerk’s office, advertised in the Beach Haven Times and Asbury Park Press, and filed with the Municipal Clerk as required by the Open Public Meeting Act. This meeting is a judicial proceeding. Any questions or comments must be limited to issues that are relevant to what the board may legally consider in reaching a decision and decorum appropriate to a judicial hearing must be maintained at all time.”

Members of the Board present: **Chairman Romano, Mayor Oldham, Commissioner Garofalo, Daina Dale, Mark Simmons, John Tilton, and Tony Aukstikalnis**
Members of the Board absent: **Terry Kulinski and Paul Rice**
Alternate members of the Board present: **Sandy Marti**
Alternate members of the Board absent: **Kathy Sheplin**
Also present were the following: **Stuart Snyder, Esq., Frank Little, Engineer and Anna Grimste, Zoning Officer**

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**Application – 2018-03 Sand and Surf Properties, LP, 25 Barnegat Avenue, Block 29  
Lot 1**

Jim Raban introduced himself as Attorney for the Applicant. Mayor Oldham recused himself from hearing the application due to being on the 200’ list.

The following were entered into as evidence:  
A4 – Variance Plan by Nelke Tyska revised November 2, 2018

Mr. Raban explained the application was carried from the October meeting and gave the background of the application and the uniqueness conditions of the property. Mr. Leon Tyska was sworn in as Engineer on the project. Mr. Tyska explained the variances being requested.

- Fire Pit location by being set 10’ off the property line
- The pool not being allowed in a front yard and the compromise to change the shape of the pool and put it 10 feet from the property line

- The pool equipment will be relocated to comply

The Board did not have any questions and concerns with changes to the plan.

The Public Portion was Open. No members of the audience came forth therefore the Public Portion was Closed.

**Tony Aukstikalnis** made a motion to approve the application as revised, seconded by **Commissioner Garofalo**. The following vote was recorded **Mark Simmons, John Tilton, Chairman Romano, Tony Aukstikalnis, Daina Dale, Commissioner Garofalo** and **Sandy Marti** all voted **Yes** to approve.

Mayor Oldham rejoined the Land Use Members.

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**Application – 2018-04 Coulson, 5423 C Long Beach Boulevard, Block 39 Lot 6**

Eric Leboeuf of Esposito and Leboeuf, LLC, introduced himself as Attorney for the Applicant.

The following were entered into as evidence:

- A1 – Application
- A2 – Variance Plan by Horn, Tyson and Yoder dated September 24, 2018
- A3 – Architectural Drawings by Christopher Jeffery
- E1 – Engineer Letter date October 30, 2018
- J1 – Resolution 2017-03

Mr. Leboeuf explained that the original plan was approved by the Board but then the project was put on hold by the home owner.

Mr. Christopher Jeffrey was sworn in. Mr. Jeffrey explained that the home owner wanted to expand the existing approved alterations to accommodate the growing family, lifestyle and to maximize the use of the house by adding 203 square feet of heated space to the Westside of the property. The altered roof, already approved at 31.5 feet, would match.

The Board concerns and questions were as follows:

- What were the changes to the floor plan?  
Mr. Jeffrey explained the need to expand the den to square off and enlarge the room. The other floor would benefit from the change.
- What was the landscape plan for the Westside of the property for the sake of access for rescue and fire equipment? Mr. Jeffries stated there was a plan for gravel and planters

Mr. Jim Brzozowski of Horn, Tyson and Yoder was sworn in as the Engineer on the project. Pictures (11 in total) of existing conditions of the property were taken by Mr. Brzozowski and entered into evidence as A4. Mr. Brzozowski explained the Pictures of the side yard, easement, a/c platform and planting areas. Mr. Jeffrey remarked that sun and light would not be affected by the expansion of the addition requested and that there would be no detriment to the neighborhood by the approval of this application.

Other concerns and questions for Mr. Jeffrey and Mr. Brzozowski from the Board were:

- Grading and drainage on the west side of the property  
Mr. Brzozowski explained 40 feet of the west side of the property would take care of the drainage issue
- Where would the parking be designated due to concern of rescue equipment access  
Mr. Jeffrey explained the easement was very wide
- Location of Air Conditioning Units  
Mr. Jeffrey state that the Air Conditioning Units would be 9' 4" from the property line

The Public Portion was Open. No members of the audience came forth therefore the Public Portion was Closed.

The Board had a discussion regarding other concerns:

- The pre-approved and existing Roof Height would match
- The need to have the west side of the property stay open for rescue equipment and it was agreed that 15' on the west side of the property would be required restricted as open for access to the property
- Have the Air Conditioning Unit moved into the Garage to fix non-conformity

**Tony Aukstikalnis** made a motion to approve the application as revised, seconded by **Mayor Oldham**. The following vote was recorded **Mark Simmons, John Tilton, Chairman Romano, Tony Aukstikalnis, Daina Dale, Commissioner Garofalo, Mayor Oldham** and **Sandy Marti** all voted **Yes** to approve.

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**Application – 2018-05 Grybowski, 3 West 83<sup>rd</sup> Street, Block 75 Lot 2**

**Mark Simmons** and **Sandy Marti** recused themselves from this application.

Mr. Eugene Grybowski introduced himself as owner of the property and was sworn in.

The following were entered into as evidence:

- A1 – Application dated October 21, 2018
- A2 – Plot Plan by Nelke, Tyska dated August 3, 2018
- A3 – Two Photos of house and aerial of rear of property and house
- A4 – Proposed Plot Plan
- A5 – Architectural Drawings by Rob Roth
- E1 – Engineer Letter date October 30, 2018

Mr. Snyder explained the application to the Board that Mr. Grybowski wanted to raise the house per statute of the state after the effects of Hurricane Sandy which allows for a house to be raised without any changes to the footprint. The only variance needed was a side yard setback to enclose an area that was once a second floor deck that would enlarge a small room. The applicant also wanted to be granted relief of Town Ordinances regarding the requirement to fill the lot to 20", place the utilities underground and not have to do a recharge pit.

Mr. Grybowski gave a history of his and his family's ownership of the residence and the reason he wanted to keep the existing home, just raise it, because he liked the style of the Cape Cod. He stated that his house only had water in the crawl space during Hurricane Sandy. He did not want to fill the lot due to his concern of compounding the pooling effect it would have on his neighbor to the east who already has an issue of runoff and pooling from the Oceanside properties. He questioned the language of the Fill Ordinance also by adding the fill would, his house would be very close to the height limit. Mr. Grybowski also ask for relief of the Ordinance requiring underground utilities stating that having to move the utilities underground would cause him to dig up existing landscaping.

Mr. Little explained that the Ordinances were for the protection of the Home Owners. Mr. Little further stated 'There is no question that the bay and ocean are rising and it was the towns' intention to have the Ordinances in place due to the fact that one day the roads will have to be raised to protect from storm surge.'

The Board concerns and questions were as follows:

- The town is not seeing pooling problems with lots that have been raised. Town lots have to be raised to protect property
- Due to Ordinance, raising the fill level would give an extra one foot of height granted in the Ordinance therefore would not have problem with the height limit.

The Public Portion was Open.

Mr. William Rutherford of 1 West 83<sup>rd</sup> Street was sworn in. Mr. Rutherford is concerned of more water piling up in his Garage and he will have to incur the

expense of fixing the problem.

Public Portion was Closed.

The Board continued their discussion regarding other concerns with Mr. Grybowski:

- What was the hardship to grant the waivers?  
Mr. Grybowski stated the undo expense of tearing up the landscaping and causing hardship for his neighbor.
- Mr. Little explained to the Board the intent of the ordinance and its wording. The language was questioned and the town fixed the ordinance to clarify its intent which had been understood and carried out by both the building and zoning officers all along. The interpretation by the Engineer and Zoning has always been to fill all lots. The intention of the Ordinance is long term.
- Underground Utilities have been a vision of the governing body.
- As with other lots in town, being the first to fill a lot may not be the prettiest but will benefit the town as a whole in the future as more lots are filled.
- An idea was discussed regarding getting just the slab to 6 feet because the street elevation was high already in this part of town but deviation will not work for the town as a whole

The Board asked if they could vote on the variance and waivers separately.  
Mr. Snyder agreed.

**Tony Aukstikalnis** made a motion to approve the variance of the side yard setback, seconded by **Commissioner Garofalo**. The following vote was recorded **John Tilton, Chairman Romano, Tony Aukstikalnis, Daina Dale, Commissioner Garofalo, and Mayor Oldham** all voted **Yes** to approve. Variance Approved.

**Tony Aukstikalnis** made a motion to waive the Ordinances to fill lot to 20", place the utilities underground and recharge pit, seconded by **Commissioner Garofalo**. The following vote was recorded **Chairman Romano** and **Tony Aukstikalnis** voted **Yes** to approve **John Tilton, Daina Dale, Commissioner Garofalo, and Mayor Oldham** voted **No** to approve. Motion to Waive Ordinance Denied.

**Mark Simmons** and **Sandy Marti** rejoined the Land Use Members.

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**Application – 2018-06 Sussex, LLC, 9 East Sussex Avenue, Block 43 Lot 9**

Rich Visotcky of Kelly and Visotcky, introduced himself as Attorney for the Applicant.

The following were entered into as evidence:

A1 – Application

A2 – Variance Plan by Horn, Tyson and Yoder

- A3 – Architectural Drawings by CWB Architecture
- A4 – Two Photos of current conditions of front of property
- A5 – Two Photos of the current conditions of the rear of the property
- E1 – Engineer Letter date October 30, 2018

Mr. Visotcky gave a brief overview of the current conditions of the property and its Owners.

Mr. Brzozowski, Engineer from the firm Horn, Tyson and Yoder was sworn in as Engineer on this project. Mr. Brzozowski explained the home was to be renovated with a 4' 4" addition to the front of the house with a 6' deck which would reduce the setback to 15' 3" where 15' 6" is existing. The steps on the side of the house would be removed and increase the set back to 10' 3". The lot is undersized for the neighborhood. The height is at 29' and the height was going up to 31'7" which causes the height variance due to the size of the undersize lot but all other houses surround the applicant's lot are at the allowable height of 32' therefore the applicant's home will not look out of place. Mr. Brzozowski stated the side yard variance was to pull in the non-conforming set back to 9' 2" which is 10" short of being conforming. Mr. Brzozowski agreed with Mr. Visotcky that light and air would not be affected and the addition would not have an adverse impact on the neighborhood.

Craig Brearley, from the firm CWB Architecture was sworn in as Architect on the project. Mr. Brearley explained that the home was a raised ranch which the additions would create a home with reverse living. The roof peaks would surpass the height limit for aesthetic purposes only.

The Public Portion was Open. No members of the audience came forth therefore the Public Portion was Closed.

Mr. Lino, 50% owner in Sussex, LLC was sworn in.

The Board concerns and questions were as follows:

- What was the access of Lot 6 and if there would be a site triangle issue  
Mr. Lino explained that Lot 6 had an unpaved road that went along his property there was brush and shrubs along that property line that he would gladly clear the 10' x 10' corner.
- Would a pool be added to the site?  
Mr. Lino stated that the pool debate has not be settled between he and his wife.

**Mark Simmons** made a motion to approve the application with the addition of the 10' x 10' cleared site triangle in the north east corner, seconded by **Commissioner Garofalo**. The following vote was recorded **Mark Simmons, John Tilton, Chairman Romano, Tony Aukstikalnis, Daina Dale, Commissioner Garofalo, Mayor**

Oldham and Sandy Marti all voted Yes to approve.

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Minutes - Regular Meeting - October 20, 2018

Tony Aukstilalnis made a motion to approve the minutes of the regular meeting on October 20, 2018, seconded by **Mark Simmons**. The following vote was recorded **Mark Simmons, John Tilton, Chairman Romano, Tony Aukstikalnis, Daina Dale, Commissioner Garofalo, Mayor Oldham and Sandy Marti** all voted **Yes** to approve.

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**Resolution - 2018-04 Coulson, 5423 C Long Beach Boulevard, Block 39 Lot 6**

**Mark Simmons** made a motion to approve Resolution verbally stated by Stuart Snyder which will be written and forward to all Board Members, seconded by **Commissioner Garofalo**. The following vote was recorded **Mark Simmons, John Tilton, Chairman Romano, Tony Aukstikalnis, Daina Dale, Commissioner Garofalo, Mayor Oldham and Sandy Marti** all voted **Yes** to approve.

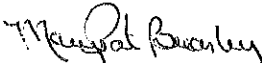
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Master Plan discussion will be carried.

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At 10:10 PM a motion to adjourn was made by **Mark Simmons**, seconded by **John Tilton**, all in favor.

Respectfully submitted,

  
Mary Pat Brearley, Secretary