

**BOROUGH OF HARVEY CEDARS
LAND USE BOARD**

Regular Meeting – Minutes
January 20, 2022

The virtual regular meeting of the Land Use Board of the Borough of Harvey Cedars was held via the Zoom platform.

The meeting was called to order by **Chairman Robert Romano** at 07:04 PM.

Chairman Robert Romano made the following announcement: “This is the 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: **Daina Dale, Chairman Robert Romano, Tony Aukstikalnis, Mayor Jonathan Oldham, Kathy Sheplin, Commissioner John Imperiale, and Craig Coddington**

Members of the Board absent: **Mark Simmons and John Tilton**

Alternate members of the Board present: **Mindy Berman**

Alternate members of the Board absent: **None**

Others present: **Adolph “Al” Sicheri Esq., Frank Little PE, and Anna Grimste Zoning Officer**

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Appointment of Conflict Attorney

Prior to hearing the applications, the board discussed the appointment of conflict attorney **Adolph “Al” Sicheri, Esq.** With no other nominations, **Mindy Berman** made a motion to appoint **Mr. Sicheri**, seconded by **Tony Aukstikalnis**. The following vote was recorded: **Commissioner Imperiale, Daina Dale, Chairman Robert Romano, Tony Aukstikalnis, Mayor Jonathan Oldham, Kathy Sheplin, Craig Coddington, and Mindy Berman** all voted to appoint **Adolph “Al” Sicheri, Esq.** as the conflict attorney.

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Application: 2022:01 – 1 E. 68th Street – Marbach Pressler Living Trust

Richard Visotcky with **Kelly and Visotcky LLC** was sworn in. **Mr. Visotcky** is representing the applicant, **Marbach Pressler Living Trust**. The trust is composed of **John Marbach** and **Sherri Pressler**.

The following was entered into evidence:

A1 – Variance Map prepared by Horn, Tyson, and Yoder

A2 – Application

A3 – 3 Colored Photographs

B1 – Engineer Review Letter prepared by Frank Little, PE

Richard Visotcky gave an overview of the property. The undersized lot contains a single-story single-family home and is located on the corner of 68th Street and Long Beach Boulevard. **Mr. Visotcky** explained that the property is burdened with two front-yard setbacks. The applicants are seeking two variances. The applicants are proposing to construct a 12x20ft pool on the westerly side of the property with a setback of 10ft to Long Beach Boulevard where 25ft is required. The second variance being requested is for the relocated staircase leading to the deck. The stairs would be 23.4ft from Long Beach Boulevard where 25ft is required.

James Brzozowski with **Horn, Tyson, and Yoder** was sworn in. **Mr. Brzozowski** added to the overview of the property. He shared that the 5525sqft property has 85ft of frontage on Long Beach Boulevard and 65ft of frontage on 68th Street. The pre-existing non-conformities on this property include; lot area where 7500sqft is required, the easterly side yard setback is 3.8ft where 10ft is required, and the existing driveway is 27ft wide where 18ft is the maximum. **Richard Visotcky** asked for a comparison between this property and surrounding properties. **Mr. Brzozowski** explained that the home fits the trend of the neighborhood.

Continuing with testimony, **James Brzozowski** shared that this home has multiple detriments. The detriments include the lot being undersized, the lot being situated on a corner of Long Beach Boulevard and the existing home being situated in a position that would not permit the swimming pool to be constructed elsewhere. He added that with the requested variances, they are not looking to overdevelop the lot.

Mr. Brzozowski clarified items that were mentioned in the engineer review letter prepared by **Frank Little, PE**. The review letter indicates that the fencing around the proposed pool has a slight opening. **Mr. Brzozowski** confirmed that the fence will form an enclosure and will modify the plans. **Frank Little** acknowledged that the plans show the deck above the pool is only shown at a 6ft distance not an 8ft distance with the door to the home at the top of the stairs. In order to bring the deck into compliance, **James Brzozowski** stated that 3.5ft could be removed. Plan revisions will need to be submitted. The final issue are the overhead electric lines that require a 10ft separation. **Mr. Little** questioned if they would be relocated underground. **Richard Visotcky** stated that the applicant has been in contact with the utility company and the lines will be placed underground at the applicant's expense.

Richard Visotcky and **James Brzozowski** reviewed the colored photographs with the board.

In conclusion, **James Brzozowski** believes the plans can be approved without the detriment to any public good.

Mindy Berman expressed concerns over the only egress of the home is contained within a

fence. **James Brzozowski** did not agree that there is any cause of concern. **Mayor Jonathan Oldham** agreed that there are safety concerns with the only staircase being enclosed in the pool area. He added that children exiting the home would need to be monitored.

Commissioner John Imperiale asked **Frank Little** if there were any differences between this application and docket number 2020:05 that the board granted approval for. **Mr. Little** confirmed that the application was very similar but the previous application had more access points.

Mindy Berman asked for the reasoning behind the fence positioning. **James Brzozowski** explained that his office was either instructed to place the fence there or they felt the positioning was logical. **Mr. Visotcky** added that the applicants would be able to answer the question.

Chairman Robert Romano added that he thinks the safety concerns raised by **Mindy Berman** and **Mayor Oldham** are valid and need to be considered.

John Marbach, one of the trustees of the **Marbach Pressler Living Trust**, was sworn in. Both trustees were present. **Richard Visotcky** asked the applicant to share details of his conversation with the utility company regarding the overhead wires. **Mr. Marbach** shared that he would need to gain proper approvals with Atlantic City Electric to move forward with the underground service. He added that this will not be a quick process but he will do what needs to be done for approval.

Referring back to the question regarding the fence, **Mr. Marbach** explained that there was reasoning behind the drawing but he has no issue with what needs to be done to bring it compliant.

Tony Aukstikalnis asked what the reasoning behind the proposed pool is. **John Marbach** added that it is for enjoyment. **Richard Visotcky** explained that this property is burdened by two front yards. The burden is forcing the applicants to appear before the board for variance approval.

Kathy Sheplin questioned the positioning of the pool equipment. **James Brzozowski** shared that the pool equipment is 10ft off of the neighboring property line. He does not believe there will be a detriment to the neighboring properties.

Craig Coddington brought attention to the fact that the applicants currently need to park their cars on the southerly side of the property and walk around the property just to gain access to the home. **Mr. Coddington** believes the stairs being relocated is greatly beneficial to the applicants.

Chairman Romano confirmed that this variance will carry with the property. **Al Sicheri** added that if the applicants maintain the structure, they can utilize the approved setbacks. However, if the home is demolished, the applicants will need to bring the new structure into compliance unless a variance is granted in advance. Since these applications are becoming a trend, **Chairman Romano** suggested an ordinance update from the Board of Commissioners. He added that he believes the Resolution should include a condition that if the house is demolished and reconstructed the setbacks would cease to exist.

Public portion was opened.

Public portion was closed.

Chairman Romano asked for board discussion.

Kathy Sheplin questioned if there is any proposed vegetation for the proposed pool area. **Chairman Romano** added that in similar applications evergreens were planted to diminish noise. **John Marbach** stated that there would be no objection to plantings.

Tony Aukstikalnis commented that this is the third time he has been a part of a similar application and there appears to be no action in changing the ordinances. **Mr. Aukstikalnis** explained that he will vote according to the ordinances and would recommend that the Board of Commissioners move to make changes. **Commissioner Imperiale** confirmed that changes to the ordinances have been drafted and the commissioners just need to meet to discuss. **Mayor Oldham** asked if **Chairman Romano** could present a letter to the commissioners for recommendation.

Commissioner John Imperiale made a motion to approve the application under the conditions that utility lines will be moved underground, plantings will be placed around the pool area for noise cancellation, shifting the fence, bring the deck to 8ft from the pool, and a limitation on the 23.4ft setback variance; seconded by **Mindy Berman**. The following vote was recorded: **Tony Aukstikalnis** voted to deny the application. **Commissioner John Imperiale, Daina Dale, Chairman Robert Romano, Mayor Oldham, Kathy Sheplin, Craig Coddington, and Mindy Berman** all voted **Yes** to approve the application.

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Resolution: 2020:06 – 84th Street LLC – 16 E. 84th Street

Frank Little explained that there were 3 variances requested at the time of the application. The variances were for pool coping, building lot coverage, and a heated vestibule that fell above base flood level. It was discovered that the variance for heated space was not included in the finalized version of the Resolution. A revised copy of the Resolution including all variances presented and approved was presented to the board. The following vote was recorded: **Commissioner John Imperiale, Chairman Robert Romano, and Mayor Jonathan Oldham** all voted **Yes** to approve the revised Resolution.

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Approval of Minutes – December 16, 2021

Kathy Sheplin made a motion to approve the minutes of the **December 16, 2021** meeting, seconded by **Commissioner John Imperiale**. The following vote was recorded: **Commissioner John Imperiale, Daina Dale, Tony Aukstikalnis, Chairman Robert Romano, Mayor Oldham, Kathy Sheplin, Craig Coddington, and Mindy Berman** all voted **Yes** to approve.

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Approval of Minutes – Reorganization Meeting – January 6, 2022

Commissioner John Imperiale made a motion to approve the minutes of the **January 6, 2022** meeting, seconded by **Tony Aukstikalnis**. The following vote was recorded: **Commissioner John Imperiale, Daina Dale, Tony Aukstikalnis, Chairman Robert Romano, Mayor Oldham, Kathy Sheplin, Craig Coddington, and Mindy Berman** all voted **Yes** to approve.

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No public was in attendance.

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At 08:04PM the meeting was adjourned.

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Christine Lisiewski, Secretary