

**BOROUGH OF HARVEY CEDARS
LAND USE BOARD**

Regular Meeting – Minutes
March 17, 2022

The regular meeting of the Land Use Board of the Borough of Harvey Cedars was held in the meeting room of Borough Hall on the above date.

The meeting was called to order by **Chairman Robert Romano** at 07:01 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 times.”

Members of the Board present: **Robert Romano, Tony Aukstikalnis, Mayor Jonathan Oldham, Commissioner John Imperiale, and Craig Coddington**

Members of the Board absent: **Mark Simmons, John Tilton, Daina Dale, and Kathy Sheplin**

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

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

Also present were the following: **Kevin Quinlan, Esq. and Doug Klee P.E.**

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**2022:02 – 1 E. Cape May Avenue – John & Christine McDonough**

Due to being in close proximity of the applicant’s property, **Tony Aukstikalnis** chose to recuse himself.

**The following was entered into evidence:**

**A1** – Application

**A2** – Variance Plan prepared by John McDonough

**A3** – Survey (To Be Submitted)

**A4** – Color Photos

**A5** – Shed Plan

**B1** – Engineer Review Letter prepared by Frank Little P.E

The applicants, **John and Christine McDonough**, were sworn in. The applicants are seeking to place a premade 18ft x 10ft shed on the easterly side of the property. The shed is conforming in dimensional requirements; however, the applicants are seeking to place the shed 6ft from the easterly property line where 10ft is required. The positioning is being requested in order to allow

the neighbors to the north to walk through the applicant's property. **Mr. McDonough** explained that crossing through his property allows the neighbors to avoid Long Beach Boulevard when walking to the beach. Per testimony, there is no formal agreement requiring the neighbor's access.

**John McDonough** gave further details into the photos provided to the board. He confirmed to the board that the boat and camper would be leaving the property.

**Doug Klee** questioned if there would be any utility service to the shed. **Christine McDonough** shared that they will provide electric but no plumbing.

**Mindy Berman** requested more information on the plans for the existing shed on the property. **Christine McDonough** explained that the existing shed will be removed.

**Commissioner John Imperiale** added that he did not see any downside to the shed.

**Mayor Oldham** questioned the intentions of the shed, adding that individuals should not be utilizing it for an additional bedroom. The applicants confirmed that the shed will only be used for storage due to limited space inside the home.

Public portion was opened.

**Mark Rinaldi** with **Singley, Gindele, and Rinaldi** was sworn in. **Mr. Rinaldi** represented **David Caskey** and **Karen Onufer** at **3 E. Cape May Avenue**. Per **Mr. Rinaldi's** testimony, the neighbors are concerned with the additional impervious coverage the shed would create.

**The following was entered into evidence:**

**O1** – Photos of neighboring property

**Mark Rinaldi** explained that the photos show flooding after rainfall. The neighbors believe that the additional impervious coverage from the shed will exacerbate the flooding issue. **Mr. Rinaldi** added that his clients do not have an issue with the shed, but would prefer the shed to conform to the 10ft side yard setback requirement.

**Chairman Robert Romano** asked for clarification on the location of the neighbor's property and the flood prone areas. **Mindy Berman** added that the neighbor's property spans the entire length of two properties; including the applicant's property and the applicant's northern neighbor. She added that the photos seem to depict the area not directly behind the **McDonough's** property.

**Chairman Romano** questioned where the water was coming from. **Mr. Rinaldi** shared that his applicants believe it is from neighboring properties during most rainstorms. He added that per his clients, the property at **3 E. Cape May Avenue** is the lowest on the street. **John McDonough** clarified that his property at **1 E. Cape May Avenue** is the lowest on the street and that it naturally drains right in front of his property with no issues. **Mr. McDonough** added that the

water comes out of the ground during rainstorms.

Public portion was closed.

**Mindy Berman** requested further information on the plans for a foundation. **Christine McDonough** explained that they will secure the shed with four auger anchors in each corner and cabled to each anchor. **Kevin Quinlan** added that they will need to be in compliance with the construction code. **Ms. Berman** asked if the shed could be raised to alleviate some of the neighbors' concerns. The applicant confirmed that the shed would be raised on additional stone.

**Mayor Jonathan Oldham** asked for more details on the flooding at the end of **Cape May Avenue**. **John McDonough** shared that the water tends to come up from the ground and pool on the western side of the property.

The applicants will need to submit a signed survey to the board secretary.

**Commissioner John Imperiale** made a motion to approve the application with the following conditions; no plumbing, no living space, existing shed to be removed, and the trailer to be removed, seconded by **Mindy Berman**. The following vote was recorded: **Commissioner Imperiale, Chairman Romano, Mayor Oldham, Craig Coddington, and Mindy Berman** all voted **Yes** to approve.

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### **2022:03 5419D Long Beach Boulevard – Thomas & Christine Christopoul**

**James Raban Esq.** with **Raban and Raban LLC** was sworn in. **Mr. Raban** is representing the applicants **Thomas** and **Christine Christopoul**.

**The following was entered into evidence:**

- A1** – Application
- A2** – Variance Plan prepared by Horn, Tyson, & Yoder
- A3** – Architectural Plans prepared by Robert Stack
- B1** – Engineer Review Letter prepared by Frank Little P.E.

Per **Mr. Raban's** testimony, the applicants are proposing to demolish and construct a new single-family home on a flag lot that is accessed by a 25ft wide access easement. The new home would be positioned 10ft from the southerly property line, where 15ft is required. At a previous meeting, the board discussed that the frontage of flag lot properties would be considered the easement rather than the ocean.

**James Brzozowski** with **Horn, Tyson, and Yoder** was sworn in. **Mr. Brzozowski** gave a brief overview of the current home and property. He explained that the new home will require a variance for a 10ft front yard setback from the southerly property line. Revised architectural plans were presented before the board. Since the board did not have time to review prior to the meeting, **Mr. Brzozowski** shared that the revisions include shifting the steps to be 24.8ft from

the westerly property line and adjusting the house 26.5ft from the westerly property line. The garage will be located 28.5ft from the westerly property line allowing for plenty of parking.

**James Brzozowski** explained that he does believe this application would be considered a hardship due to the zoning determination of the flag lot frontage. He added that he thinks the plans are the best potential outcome for the property.

The applicants will need to submit a copy of revised architectural plans and variance plan to the board secretary.

**Mindy Berman** asked for details on the retaining wall that is pictured in the variance plans. **James Brzozowski** confirmed that the wall is on the southerly neighbor's property. He added that the applicants process is lower than the neighboring properties but will be remediated.

**Mayor Jonathan Oldham** emphasized the importance of keeping side yards between neighboring properties clear for emergency access and the 25ft access easement open. **James Brzozowski** did not find any issue with keeping it open for access.

**Mindy Berman** questioned why the applicant could not comply if the property will be a blank slate. **James Raban** explained that they could comply but they would ultimately be penalized on their side-yard setbacks due to being a flag lot.

With this type of lot and application becoming a trend, **Commissioner Imperiale** shared that the governing body is working on updating the description of frontage and the zoning ordinances. **James Raban** shared that at the previous meeting with the zoning officer in attendance, the board came to an understanding that these lots would need to come before the board to review if the plan works best for the property.

Public portion was opened.

Public portion was closed.

**Mindy Berman** made a motion to approve the application under the condition that the westerly side of the property will remain open the full 25ft, seconded by **Mayor Jonathan Oldham**. The following vote was recorded: **Commissioner Imperiale, Chairman Romano, Tony Aukstikalnis, Mayor Oldham, Craig Coddington, and Mindy Berman** all voted **Yes** to approve.

**Tony Aukstikalnis** requested to discuss the ordinance.

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Approval of Minutes – February 17, 2022

Tony Aukstikalnis made a motion to approve the minutes, seconded by **Mindy Berman**. The following vote was recorded: **Commissioner Imperiale, Chairman Romano, Tony**

Aukstikalnis, Mayor Oldham, Craig Coddington, and Mindy Berman all voted **Yes** to approve.

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The meeting was opened to board discussion.

Chairman Robert Romano shared that he has prepared a letter for the Board of Commissioners in regard to the swimming pool ordinance. The letter was written due to an increase in variance requests for swimming pools on corner lots.

Mayor Jonathan Oldham made the board aware that the commissioners are working towards forming a three-person committee. He explained that it was brought to the governing body's attention that businesses are finding it hard to add an additional use to their property. The committee would review applications for the additional use for the time-frame between Memorial Day and Labor Day. The three-person committee would be comprised of the Land Use Board chairman, chairman designee, and the zoning officer. If the committee finds the request to be a major change or the business will move into the summer, the applicant will need to come before the Land Use Board. **Mayor Oldham** used the example of a business wishing to utilize their off-season space for Christmas tree sales.

Mindy Berman questioned the reasoning on why the three-person committee will only be approving off-season applications. **Mayor Oldham** explained that this will only be utilized in the off-season for additional use requests. He added that during the summer, the businesses or neighbors surrounding deserve to be notified of any changes that may be going on around them. **Kevin Quinlan Esq.** shared that this is common in other municipalities on Long Beach Island.

Mindy Berman shared that it is often brought up by individuals that the process of coming before the board is difficult. She questioned whether the new committee could alleviate those problems and potentially take away the application fees. **Mayor Oldham** stated that the three-person committee fee will be \$75.00 and if the business chooses to come before the board, they will need to submit additional fees.

In response to **Ms. Bermans** comment on the difficulty of the process, **Mayor Oldham** exclaimed that the Harvey Cedars Land Use Board is understanding and fair. **Kevin Quinlan Esq.** agreed with **Mayor Oldham** and shared difficulties residents have in neighboring municipalities. He added that this board is one of the most accommodating on the island. **Mindy Berman** asked if we could make the fees less. **Kevin Quinlan Esq.** explained that the board is self-funded and professionals are not paid for with taxpayer dollars.

Chairman Robert Romano questioned whether the three-person committee ordinance had been reviewed by an attorney. **Mayor Oldham** confirmed that it had been reviewed and the first reading of the ordinance would be March 18th.

Moving forward, **Tony Aukstikalnis** asked if an additional letter should be written to the Commissioners in regards to the ordinance that references flag lots. **Mayor Jonathan Oldham** explained that the purpose of the ordinance was to slow down the subdivision of the properties

on the oceanfront. **Kevin Quinlan** shared that he is in favor with keeping the ordinance written the same way. He added that during a previous board meeting with a flag lot, the board was able to adjust the plans to better fit the property. **Mr. Aukstikalnis** stated that this is forcing applicants to waste time and money. He will not accept the current hazy ordinance.

Commissioner Imperiale shared that the commissioners will look at the zoning ordinances.

Prior to a letter being drafted, **Kevin Quinlan** suggested that **Frank Little PE** review the applications that have been approved and build the ordinance around those conditions.

Chairman Robert Romano will write a letter to the governing body.

At 8:33PM the meeting was adjourned.

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Christine Lisiewski, Secretary