

**BOROUGH OF HARVEY CEDARS
LAND USE BOARD**

Regular Meeting – Minutes
April 21, 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, Anthony Aukstikalnis, Kathy Sheplin, Commissioner John Imperiale, and Craig Coddington**

Members of the Board absent: **Mark Simmons, John Tilton, Daina Dale and Mayor Jonathan Oldham**

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

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

Also present were the following: **Adolph Sicheri Esq., Frank Little PE and Anna Grimste Zoning Officer**

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**Application: 2022:04 – 13 E. 77<sup>th</sup> Street – Robert Budlow**

The applicant, **Robert Budlow**, was represented by **James Raban Esq.** with **Raban and Raban LLC. James Raban Esq.** was sworn in.

**The following was entered into evidence:**

**A1 – Application**

**A2 – Engineer Plan prepared by Horn, Tyson, & Yoder**

**A3 – Architectural Plan prepared by Craig W. Brearley**

**B1 – Engineer Review Letter prepared by Frank Little PE**

**Mr. Raban** shared with the board that the current owners of the property are **Reginald and Barbara Smith**. The applicant is a contract purchaser of the property and was given consent via Affidavit of Ownership.

**James Raban** described the lot as an oceanfront property with a single-family home. The

applicant is proposing to demolish the existing home and construct a new single-family home. **Mr. Raban** explained that the new home is constrained due to the footprint that was approved by the Department of Environmental Protection. The applicant is seeking two variances. The variances include a westerly side yard setback of 6.7ft where 10ft is required and a potential height variance.

**James Brzozowski** with **Horn, Tyson, and Yoder** was sworn in. **Mr. Brzozowski** further described the property as a 50ftx100ft lot that is transversed by the ocean front building line. The setback variance that is being requested is due to the east and north end of the oceanfront property being deemed a dune by the DEP. Due to the determination, the DEP will not allow the existing footprint to be expanded. **James Brzozowski** stated that the proposed home will have a footprint of 26.1% where 29% is the maximum permitted. In addition to the side yard variance, **Mr. Brzozowski** added that a height variance may also be required. Per the zoning ordinances, the proposed home would not be permitted to have a sloped roof of higher than 32ft. The ordinance adds that if a home is non-conforming in setbacks, the height requirement is 30ft. **James Brzozowski** asked to discuss the need for this variance since height requirements for oceanfront lots are measured differently. Standard lots are measured from the crown of the road, while oceanfront lots are measured from the first-floor elevation.

**The following was entered into evidence:**

#### **A4 – Sketched profile of existing properties**

**James Brzozowski** explained that due to the property being an oceanfront, he does not believe that the 2ft reduction is applicable. He added that the proposed home would have a peak elevation of 42.8ft and a first-floor elevation at 22.1ft. The peak proposed is comparable to the neighboring properties.

**Adolph Sicheri Esq.** suggested that the applicant should request the height variance.

In conclusion of testimony, **James Brzozowski** shared that he does not believe there will be a detriment to any neighbors.

After hearing the testimony, **Frank Little** questioned the need for the height variance. **Adolph Sicheri Esq.** stated that the ordinance does not put an exception under the general provisions. **Commissioner Imperiale** suggested they request the variance to be safe.

**Commissioner John Imperiale** shared that he is thrilled that another “mansion” is not being proposed on the oceanfront. He added that from touring the property, he believes that there would be plenty of room for emergency access.

**James Brzozowski** confirmed that there is access on either side of the property for emergency vehicle access.

**Craig Coddington** questioned potential fencing plans. **James Brzozowski** was unaware of any plans.

**Junetta Dix** was sworn in. **Ms. Dix** is an environmental consultant with ACT Engineers. The applicant hired **Ms. Dix** to obtain the CAFRA permit for the property since the property was within 150ft of a dune. When the permit was submitted to the DEP, the DEP declared that the property was entirely a dune causing an environmental hardship.

**The following was entered into evidence:**

**A5 – Color photographs of the property**

**Junetta Dix** reviewed the photos with the board.

**Sarah Jennings** with **Craig Brearley Architects** was sworn in. **Ms. Jennings** prepared the architectural designs for the application. Testimony began with an overview of the presented drawings. **Ms. Jennings** explained that in order to comply with the Engineer Review Letter, the garage area will not contain any storage rooms and remain open. She explained that overall, the proposed home is typical 30ft wide house with functional average sized rooms.

**Robert Budlow**, the applicant, was sworn in. **Mr. Budlow** explained that he was planning to renovate his current home to become his permanent residence at **8 E. 77<sup>th</sup> Street** when he was approached by **Reginald** and **Barbara Smith** to purchase their home at **13 E. 77<sup>th</sup> Street**. The proposed plans reflect the goal to make **13 E. 77<sup>th</sup> Street** a permanent residence. **Mr. Budlow** shared that at first glance he did not see any issue with the lot. Ultimately, the CAFRA permitting process revealed that the lot was considered a dune.

**Commissioner Imperiale** complimented **Sarah Jennings** on being able to execute the plans on a difficult footprint and keep the house modest.

**Chairman Romano** questioned if the dune determination could be appealed. **Junetta Dix** explained that she has never seen an appeal but it is possible.

Public portion was opened.

**Matt Decicco – 11 E. 77<sup>th</sup> Street** – was sworn in. He shared that the applicants have been very considerate of neighboring properties. **Mr. Decicco** is in favor of the application.

**Joseph Geiger – 6 E. 77<sup>th</sup> Street** – was sworn in. He shared that he does not agree with the dune declaration. In his opinion, **Mr. Geiger** believes that this type of construction is modest for an oceanfront and “what the town wants”. He is in favor of the application.

**Sue Ellen Riffkin – 5 W. 77<sup>th</sup> Street** – was sworn in. She shared that she is in full support of the approval of the variances requested.

**Richard Yurick – 3 E. 77<sup>th</sup> Street** – was sworn in. He shared that he is in favor of the application.

**Scott Tonnessen – 20 E. 77<sup>th</sup> Street** – was sworn in. **Mr. Tonnessen** is in favor of the

application.

**Bernard Rosenberg – 11 E. 76<sup>th</sup> Street** – was sworn in. He shared that the Bulow’s are excellent neighbors and have good intentions. **Mr. Rosenberg** is in favor of the application.

Public Portion was closed.

**Chairman Romano** asked for board discussion.

**James Raban Esq.** added that the Engineer Review Letter recessed the garage door by 1ft that was not reflected on the submitted architectural plans. Revised plans will need to be submitted.

**Commissioner John Imperiale** made a motion to approve the application including both the height variance and side yard setback variance, seconded by **Mindy Berman**. The following vote was recorded: **Commissioner Imperiale, Chairman Romano, Anthony Aukstikalnis, Kathy Sheplin, Craig Coddington,** and **Mindy Berman** all voted **Yes** to approve the application.

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

**Craig Coddington** made a motion to approve the Resolution, seconded by **Commissioner Imperiale**. The following vote was recorded: **Commissioner Imperiale, Chairman Romano, Craig Coddington,** and **Mindy Berman** all voted **Yes** to approve.

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

**Anthony Aukstikalnis** made a motion to approve the Resolution, seconded by **Mindy Berman**. The following vote was recorded: **Commissioner Imperiale, Chairman Romano, Anthony Aukstikalnis, Craig Coddington,** and **Mindy Berman** all voted **Yes** to approve.

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**Approval of Minutes – February 17, 2022**

**Anthony Aukstikalnis** made a motion to approve the minutes, seconded by **Mindy Berman**. The following vote was recorded: **Commissioner Imperiale, Chairman Romano, Anthony Aukstikalnis, Craig Coddington,** and **Mindy Berman** all voted **Yes** to approve.

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The meeting was opened to board discussion.

**Chairman Robert Romano** provided the board with a handout of the easement ordinance. With

the Board Engineer and Zoning Officer in attendance, **Chairman Romano** asked to discuss the frontage interpretation that has appeared in recent applications with properties located on easements and flag lots. **Anthony Aukstikalnis** shared that the ordinance in its current state is an abomination and could be cleaned up easily. **Mr. Aukstikalnis** expressed the importance of determining where a front yard would be located.

**Frank Little** and **Anna Grimste** explained that there are many different lot variations throughout the town and one ordinance will not fix it. **Mr. Little** suggested that it would be best if the board heard each application since they are unique. **Ms. Grimste** shared the example of the application for 12 E. Cumberland Avenue with the board.

**Anthony Aukstikalnis** questioned their overall determination of where the frontage would be on a lot. He added that the front yard should front on the access point. **Anna Grimste** explained that there needs to be access to the lot and room for parking.

**Frank Little** sketched an example of a flag lot. He gave outcomes of potential front yard determinations. **Mr. Aukstikalnis** does not believe the oceanfront should be considered the front of the property and requested to see the frontage on the westerly side of the property. **Mr. Little** explained that the interpretation **Mr. Aukstikalnis** mentioned would allow for the 15ft off of the easement. **Chairman Robert Romano** added that this would not work on every lot.

To pull the discussion together, **Chairman Romano** stated that the crux of the matter is that area needs to be provided on a lot for parking and maneuverability. He added that this should be noted in the ordinance. **Anna Grimste** shared that the ordinance may be difficult to interpret but it clearly explains that an easement should be utilized as a road. **Chairman Romano** added that the ordinance should take it further and detail required space for maneuverability on the lot itself. **Adolph Sicheri** suggested possibly raising the setback.

In conclusion, **Chairman Romano** shared that he will look at the ordinance and make it easier to interpret.

At 8:31PM the meeting was adjourned.

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Christine Lisiewski, Secretary