

**BOROUGH OF HARVEY CEDARS  
LAND USE BOARD**

**Regular Meeting – Minutes  
May 19, 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 07:05 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, Commissioner John Imperiale, and Craig Coddington**

Members of the Board absent: **Mark Simmons, John Tilton, Daina Dale, Mayor Jonathan Oldham, 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 Frank Little P.E.**

~~~~~

**Chairman Romano** attended the meeting virtually via the Zoom platform.

~~~~~

**Application: 2022:05 – 23 W. 83<sup>rd</sup> Street – Michael & Mark Kapnick**

**Deidre Martin** with the **Law Office of Deidre Martin, LLC** was sworn in. **Ms. Martin** appeared on behalf of the applicants **Michael** and **Mark Kapnick**. The applicants are currently under contract to purchase the property.

**The following was entered into evidence:**

- A1** – Application
- A2** – Subdivision Plan prepared by East Coast Engineering
- A3** – Survey Map prepared by East Coast Engineering
- A4** – Colored Photographs
- A5** – Copy of Utility Easement and Riparian Grant Deed
- B1** – Engineer Review Letter prepared by Frank Little P.E.

**Deidre Martin** shared that the applicants are seeking a minor conforming subdivision of the subject property. The applicants are proposing to demolish the existing tri-plex and create two conforming lots on the property. Each new property will hold one single-family dwelling. **Ms. Martin** explained that one of the lots will be a flag lot and the lot remaining in the front will be a typical rectangular lot. The placement of the proposed lot lines allows for both properties to have waterfront access and views to Kinsey Creek.

**Jason Marciano** with **East Coast Engineering** was sworn in. **Mr. Marciano** gave a more in-depth description of the current lot and what the applicants are proposing. He explained that the current lot has 108ft of frontage on 83<sup>rd</sup> street, 140ft of depth, and 80ft of bulkhead on the northwest corner of the property. The existing property consists of 15,371sqft where 5000sqft is required. The applicants are proposing to create a 70ft depth lot in the front of the property, with a second 70ft depth flag lot in the rear. The flag lot would include a 15ft driveway area. The front lot would be 6544sqft and the rear lot would be 8827sqft. Initially the applicants were seeking a frontage variance, during the application review by **Frank Little P.E.** it was determined they do not.

**Deidre Martin** discussed paragraph five of the engineer review letter in which states that the applicants may seek to make improvements to Sunset Park as an option to address NJDEP requirements. **Jason Marciano** shared that since the applicants are proposing to subdivide a waterfront property and construct two single family homes, the proposal triggers the need for the public access. Due to the location, the applicants are looking to allow for public access improvements elsewhere. **Mr. Marciano** explained that the applicants have discussed with the town the option of improvements with Sunset Park. He added that at this time, approvals have not been granted.

**Commissioner Imperiale** requested additional information about the Sunset Park improvements. **Frank Little** explained that the NJDEP in certain circumstances requires public access if you are a bayfront property. If applicants are presented with that requirement, they can approach the borough and seek to make improvements on a bayfront that would enhance public access. **Kevin Quinlan Esq.** added that this is not something the board would need to include in a Resolution, this would be addressed during the CAFRA permitting process.

**Frank Little** expressed concerns over the 15ft driveway portion of the flag lot. He explained that after the lots are filled, the 15ft wide portion would ultimately be smaller. **Mr. Little** questioned if the applicants would be willing to increase the 15ft to 20ft to allow easier access to the rear property.

Before moving forward with testimony, **Tony Aukstikalnis** expressed displeasure over the interpretation of the ordinance. **Mr. Aukstikalnis** does not believe the proposed lots would be conforming. He added that the lot does not have the access way the entire length of the access lot. **Frank Little** stated that **Mr. Aukstikalnis** is referring to easements, not flag lots. **Mr. Little** explained that during an extensive review with the borough zoning officer, it was determined these lots are conforming. **Tony Aukstikalnis** referenced 13-7.4C in the zoning ordinances. **Frank Little** shared that the referenced ordinance refers to easements and does not apply to this

property.

**Tony Aukstikalnis** added that emergency vehicles are going to have a hard time accessing the lot with the 15ft proposed. Due to the association with the High Point Volunteer Fire Company, **Chairman Romano** requested input from **Craig Coddington** on the ideal width for emergency access. **Craig Coddington** shared that 20ft is ideal for emergency personnel.

Pulling the discussion together, **Kevin Quinlan Esq.** stated that the board is requesting the applicants adjust the width of the flag to 20ft wide.

The board recessed while the applicants discussed the board's request.

**Deidre Martin** shared that the applicants are open to a 17ft flag portion where 15ft was initially proposed. She added that the 17ft would remain clear and travel the full length of the property. **Frank Little** requested an additional 3ft setback off of the 17ft in the rear lot. **Jason Marciano** shared that the applicants are hoping to remain with the 17ft setback. **Chairman Romano** asked for clarification on what is being proposed and requested.

**Kevin Quinlan** summarized that the dividing lot line between 5.02 and 5.03 would be adjusted 2ft to the north, the requested 15ft flag lot access would be adjusted to 17ft, the 17ft portion would not be used for the off-street parking requirement, and the 17ft would remain unobstructed.

Public portion was opened.

**John Spark – 27 W. 83<sup>rd</sup> Street** – was sworn in. **Mr. Spark** questioned the positioning of the subdivision and why they are positioning the lines where variances would be required. **Kevin Quinlan Esq.** clarified that the initial determination was that variances were required, however after review by the board engineer and zoning officer it was determined to be compliant.

**Stanley Lerman – 18 W. 83<sup>rd</sup> Street** – was sworn in. **Mr. Lerman** had concerns over the retaining wall that will be built on the property once construction begins. **Jason Marciano** explained that as of now they are proposing the subdivision, grading plans will be submitted once the lots are subdivided.

Public portion was closed.

**Chairman Romano** questioned whether the CAFRA permit approval was required prior to submitting the subdivision map. **Frank Little** confirmed that the approval is not required.

**Mindy Berman** shared concerns over the bulkhead portion of the property. She explained that there is a small access point to the south lot bulkhead that does not allow maneuverability and could easily be blocked by a boat from the neighboring property. **Deidre Martin** confirmed that the bulkhead will be about 10ft with the proposed changes. **Jason Marciano** added that the goal was to allow the property to the north to have full access to the bulkhead since the southerly property falls in a corner section. He explained that the southerly property allows for access to

the bulkhead for swimming and paddleboarding.

**Frank Little** questioned whether the small section of riparian grant would need a lot number. **Jason Marciano** believes a lot number will need to be generated by the assessor.

**Craig Coddington** made a motion to approve the application with the following conditions: the property line between line between 5.02 and 5.03 will be shifted 2ft to the north, revised plans will be submitted to show a 17ft driveway along lot 5.03, the driveway will not be used to meet off-street parking requirements when the lots are developed, and the existing side-yard setback on lot 5.02 will be 17ft, seconded by **Commissioner John Imperiale**. The following vote was recorded: **Commissioner John Imperiale, Chairman Robert Romano, Tony Aukstikalnis, Craig Coddington, and Mindy Berman** all voted **Yes** to approve the application.

~~~~~

**Resolution: 2022:05 – 23 W. 83<sup>rd</sup> Street – Michael & Mark Kapnick**

**Kevin Quinlan Esq.** read the Resolution into record. Minor grammatical changes were made.

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

~~~~~

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

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

~~~~~

**Approval of Minutes – April 21, 2022**

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

~~~~~

At 8:18PM the meeting was adjourned.

~~~~~

Christine Lisiewski, Secretary