

**BOROUGH OF HARVEY CEDARS  
LAND USE BOARD**

**Regular Meeting – Minutes  
September 17, 2020**

A regular meeting of the Land Use Board of the Borough of Harvey Cedars was held in the meeting room at the High Point Firehouse, 80<sup>th</sup> West Street., Harvey Cedars, New Jersey on the above date.

The meeting was called to order by **Chairman Bob Romano** at 07:02 PM.

**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.”

Members of the Board present: **John Tilton, Chairman Robert Romano, Daina Dale, Terry Kulinski, Tony Aukstikalnis, Mayor Jonathan Oldham, Commissioner Imperiale**

Members of the Board absent: **Mark Simmons**

Alternate members of the Board present: **Craig Coddington**

Alternate members of the Board absent: **Sandy Marti**

Also present were the following: **Stuart Snyder, Esq., Kevin Quinlan, Esq., Frank Little, PE,** and **Anna Grimste, Zoning Officer**

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Before the board began regular business, **Michael Bilby** at **6 E. 74<sup>th</sup> Street** and **Jay Madden** requested to have an informal discussion with the Land Use Board regarding the home on his property. The bungalow styled home at 6 E. 74<sup>th</sup> street was originally built in 1906. **Mr. Bilby** explained to the board that he is looking to transform the home into his primary residence while keeping the historical aspect of the home intact. The formal discussion was requested to gauge the boards willingness to hear an application for a significant renovation on the home. **Michael Bilby** explained that the cost of improvement value triggers the lot fill ordinance. In order to place the required twenty inches of fill, the home would need to be raised. **Mr. Bilby** explained that raising the home causes a risk of collapse. All renovations besides the lot fill ordinance would meet the requirements. **Jay Madden** shared that they are planning to do most of the renovations on the back of the home to preserve the style of the front of the house. At this time the home is above base flood elevation. **Michael Bilby** added that since the time he purchased the home, there has been no flooding or standing water on the property. With lot fill being an important requirement, **Mr. Bilby** requested the boards opinion on whether or not they believe he should submit an application for a variance.

**Stuart Snyder** stated that this request would be deviating away from the fill ordinance and the board would need to review alternative measures that would ultimately accomplish the goal.

**Frank Little** shared that in order for the board to make any decision, the formal application

would need to be submitted. He added that the home being over base flood elevation is a big plus for their application.

**Stuart Snyder** stated that the board will not need full architectural plans. He requested **Mr. Bilby** submit elevation and basic floor plans to ensure that the home will continue as single-family use.

**Tony Aukstikalnis** requested confirmation on whether the setbacks on the property follow the current ordinances. **Michael Bilby** confirmed that they follow the current set-back ordinances.

**Mayor Jonathan Oldham** questioned whether the house was on pilings. **Mr. Bilby** shared that there are no pilings under the house.

In conclusion, **Michael Bilby** believes the board will be able to vote on this matter and will submit an application with the proposed variance at a later date.

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#### **Application – 2019:05 – 12 E. Burlington Ave. – William & Amy Sheffield**

**William Sheffield**, the applicant, was sworn in.

**Stuart Snyder Esq.** reviewed with the board that the applicant is here before the board on an Order of Remand from Judge Marlene Lynch Ford. The initial application was submitted in July 2019. **Mr. Snyder** asked **Commissioner John Imperiale** and **Craig Coddington** to recuse themselves due to not hearing the initial application.

**Robert McGowan Esq.** approached the board with questions regarding the accuracy of the notices and if the co-owner of the property, **Amy Sheffield**, is in favor of the application due to her absence from all meetings.

**Stuart Snyder Esq.** explained that the notice was sufficient and that all requirements were met prior to the meeting. In response to the argument that **Amy Sheffield** is not a part of the application, **Mr. Sheffield** explained that in the initial application it is required for the applicants to submit an Affidavit of Ownership. It was confirmed that the applicants submitted an Affidavit of Ownership with their initial application.

**William Sheffield** gave an overview of the property at **12 E. Burlington Avenue**. The initial application was submitted for an interpretation of a borough ordinance. After the interpretation, an application was submitted for a variance request so the applicants could build to their property line. **Mr. Sheffield** shared that the prior application brought out objectors that were in fear of losing their views from their properties.

Due to the board's denial of the application, the applicant brought the case to the Superior Court

where the case was remanded back to the Harvey Cedars Land Use Board. **Mr. Sheffield** stated that Judge Marlene Lynch Ford was interested in the reason the variance was denied and did not see any reasoning behind the denial. Per **Mr. Sheffield**, Judge Ford would like the board to consider whether the variance would impact the zoning plan and to consider that the adjacent property that the applicant wants to move towards is unbuildable.

**Arnold Boyle** with **Walters Architectural** prepared two different building footprints based on whether the application is approved or denied. **William Sheffield** explained that he asked the architect to take the existing property with and without the variance and design a 4500 square foot structure.

**Arnold Boyle** with **Walters Architectural** was sworn in.

**Mr. Boyle** confirmed that he was asked by the applicant to prepare two different footprints.

**The following was entered into evidence:**

**A1 – Sheet BD1 of Walters Architectural footprint prepared by Arnold Boyle**

**A2 – Sheet BD2 of Walters Architectural footprint prepared by Arnold Boyle**

**A3 – Sheet BD3 of Walters Architectural footprint prepared by Arnold Boyle**

**Arnold Boyle** explained that BD1 shows a footprint of a home without a variance. The footprint shows that the side of the home would extend 95feet. **Mr. Boyle** explained that BD2 would have larger front yard and rear yard setbacks if a variance is approved. The proposed footprint on BD2 would limit the blockage of views for neighbors on the westside of the property. The third sheet, BD3, compares the footprints.

**William Sheffield** added that after speaking to his neighbors, a majority of them would like the new home to be built in the same location of the current home. If the applicants choose to keep the property and build their own home, they would like the future home to be positioned further back from the street like the current home. **Mr. Sheffield** explained that if they do sell to a builder, they will be able to build whatever they want. If the variance is granted, the applicant believes that it would be greatly beneficial to the neighbors and neighborhood.

**Stuart Snyder Esq.** explained that the zero-foot setback the applicant is requesting is not logical. In order to complete any work on that side of the property, contractors or laborers would need to be on the Borough of Harvey Cedars dune property that neighbors the lot. **Mr. Snyder** questioned the applicant on whether their architect would be able to propose a new plan with a realistic setback that may or may not require variance relief. **William Sheffield** explained that there are homes in Harvey Cedars that pre-dated the 1962 storm that are over the building line. **Mr. Snyder** responded that the building line is not in question, it is the applicant's property line and the Boroughs property that adjoins it. **Mr. Sheffield** questioned if along with the variance, a stipulation could be included that does not permit equipment or workers on the borough's property. **Stuart Snyder** added that he understands the argument, but setbacks are put into place for safety and maintenance. **Mr. Snyder** requested **Arnold Boyles** recommendation on setbacks for this property.

**Arnold Boyle** shared that between 5ft is the optimal distance and 3ft is the closest you would ever go to a building line. **Mr. Boyle** recommends that distance rather than going all the way up to the building line. With a 3ft setback on the building line, an additional 2feet would be added to the front of the structure. Per **Mr. Boyle**, that would allow for almost the same proposed footprint.

**Chairman Bob Romano** commented on the applicant's testimony. In his opinion, he does not believe that the lot is an unusual lot. **Chairman Romano** requested confirmation on whether or not there is any exceptional narrowness to the property. **Mr. Sheffield** stated that he believes it is exceptionally narrow at 60ft. **Chairman Romano** explained that the lot is the standard size and even though it is an "L" shape, it is not exceptional.

**Frank Little** questioned the architect **Arnold Boyle** on the reasoning behind every house on the oceanfront being a minimum of 4500sqft. **Mr. Boyle** responded that the houses can be smaller. **William Sheffield** added that his current home on the property is 2000sqft and that most builders he spoke to recommended a minimum of 4500sqft to optimize the value.

**Chairman Bob Romano** continued to explain that even though the property is vacant does not mean it impacts with the zone plan. **Mr. Sheffield** responded that the variance requires them to look at the benefit versus the cost. Per the applicant, the variance would benefit their neighbors. **Chairman Romano** disagreed and explained that there is no guarantee of what the future holds for this property. Considering the front yard on the westside of the property and the northside a side yard, the applicant confirmed that a 100ft home could be built without a variance. **Chairman Romano** questioned why this would be considered a hardship. **Mr. Sheffield** stated that the board has been ordered by Judge Marlene Lynch Ford to consider the benefit to the public. **Chairman Romano** explained that there is no benefit to the public. In his opinion, the only benefit would be if the applicant was to deed restrict his property with a 30ft setback to ensure his neighbors are not affected. The applicant did not agree to deed restricting his property. **Mr. Sheffield** explained that he can 99% guarantee that his neighbors will benefit from this variance. With the uncertainty of what happens in the future, **Chairman Romano** did not agree with the applicants testimony.

**Stuart Snyder Esq.** explained that the board is allowed to come up with suggestions that will allow for the proposed plan to work. **Mr. Snyder** suggested a more appropriate setback to ensure individuals will not be on the borough's dune property. He also suggested deed restricting his property to keep his neighbor's best interest. **William Sheffield** responded that he cannot agree to any of the suggestions being presented to the board. Per the applicant, he has to many options available for the property to make the decision now. **Mr. Snyder** asked if the applicant would amend the plan with a reasonable setback and if the variance is granted would deed restrict the property so the areas would not be built upon in the future. **Mr. Sheffield** shared that he does not see negotiating in the current setting, but could see negotiating before the court. As a suggestion to put a stop to the application and going back to the court, the applicant suggested trading the neighboring borough property for his dune property. **Chairman Romano** asked the applicant to not bargain and to proceed with the application that is being presented to the board.

Prior to opening the board to public discussion, **Chairman Romano** asked for clarification regarding the interpretation brought before the board by the applicant under docket number 2019:04 and if Judge Ford was interested in discussing it at all. **William Sheffield** stated that at this time he is not objecting the board's decision on the interpretation.

Public portion was opened.

**Robert McGowan Esq.** asked the applicant if he would be able to guarantee a 20ft setback from the street. If the setback can be guaranteed, **Mr. McGowan** will not object to the variance application. **Mr. Sheffield** explained that the ordinance only requires 10ft so he cannot guarantee 20ft. **Robert McGowan Esq.** requested the applicant to detail any benefits. **William Sheffield** stated that the homes will be at least 20ft apart and most individuals from surrounding properties will not be affected if the variance is granted. **Mr. McGowan** asked the applicant to name any land use elements that are being served in his request. **Mr. Sheffield** reflected back on his previous statement and stated that he will be benefiting the zoning plan. **Robert McGowan Esq.** requested that the board note that the applicant failed to mention any purpose of the land use law or justified the request for a variance.

**Caitlyn Pappas** – 11 E Passaic Ave – is the neighbor to the southside of the property. **Mrs. Pappas** explained that in 2016 she went through the building process on her own property. During that process, she shared that she learned a lot about what was allowed and intentionally configured the home to maximize views. **Mrs. Pappas** expressed concern for her neighbors to the west of 12 E. Burlington because there is no guarantee for what will be placed on that property.

**Virginia Cajigal** – 9 E. Passaic – requested confirmation on whether all of the new property owners in the area were noticed prior to the meeting. **Mrs. Cajigal** explained that they will be directly impacted. **William Sheffield** explained that at the time he got the new 200ft list of property owners, new owners would not have made the list. He also thanked **Mrs. Cajigal** for bringing it to the board's attention how they would be negatively impacted. **Mrs. Cajigal** questioned the status of the garage located on the property and if it was grandfathered in. **Mr. Sheffield** stated that there is an 8.5ft setback from the side yard. He continued to explain that with the variance, **Mrs. Cajigal** and the new owners on the boulevard would have their views expanded. **Virginia Cajigal** responded that what is being requested would be if **Mr. Sheffield** was building, it does not mean someone else will use the variance to build what they want.

Prior to continuing, **Stuart Snyder** clarified that the application before the board includes a plan that shows what could be built on the lot without a variance. He agreed with **Mrs. Cajigal** that a builder could build what they want, but they would need to follow all of the setback requirements. The variance being requested sets beneficial setbacks for his neighbors. **Mr. Snyder** continued to explain that **Mr. Sheffield** has not agreed to deed restricting his property that would effectively protect his neighbors.

**James Hindle** – 8 E. Burlington Avenue – appreciates that the applicant is looking to squish the house to help his neighbors keep their views. **Mr. Hindle** stated that though the thought is nice, we are currently living in fantasy world. He referred to the variance as a blank check due to any

individual being able to come in after him and utilize the variance to do what they want to do.

**Stuart Snyder Esq.** questioned the applicant on whether or not he would be willing to bring a compromised plan before the board showing a revised setback and side yards that would satisfy him and deed restrict the property. With no architectural plans, **Mr. Snyder** explained to the applicant that he is asking them to take a leap on only testimony. He asked the applicant if he would like to take some time and take the suggestions or go with the decision the board makes. **William Sheffield** stated that he needs to take the decision that is made tonight because he needs to figure out what he can offer to a builder.

Public portion was closed.

Board discussion was opened.

**Chairman Bob Romano** does not see how it is possible to build a home with a zero setback. He shared that his experience in Harvey Cedars is that homes are maximized due to property value so there is no guarantee to what will be there. **Chairman Romano** visited the C2 variance requirements and does not find it justified. With no expert testimony and no architectural plans, he cannot support this application.

**Tony Aukstikalnis** stated that there is plenty of buildable opportunity on this lot without a variance.

**John Tilton** does not support the request for a zero setback. With many years of experience, he explained that it is impossible to build and not impose on the neighboring property with a zero setback. **Mr. Tilton** suggests the applicant take **Stuart Snyder's** advice and the board would be willing to work with him. With the property the way it is, **Mr. Tilton** explained that any builder on the island could make the property work.

**Terry Kulinski** also finds an issue with the request for a zero setback and the lack of plans.

Like the other board members, **Kathy Sheplin** finds issue in the request for a zero setback.

**Mayor Jonathan Oldham** questioned why the applicant is seeking a variance with a conforming lot. He added that every variance is give and take but with this request the board is only seeing one side. **Mayor Oldham** does not understand the hardship or what is being proposed. He explained that with the testimony given from the applicant, it came off as a threat due to the feeling of "give me this or I'll give you that". With the present application, **Mayor Oldham** sees no benefit and needs to see plans.

**Daina Dale** agreed with the other board members on the zero setback and is not in support of the application.

**William Sheffield** responded to **Mayors Oldham** comment and explained that he is not trying to threaten but at a practical standpoint those are his choices.

**Daina Dale** made a motion to deny the application, seconded by **Tony Aukstikalnis**. The following vote was recorded **John Tilton, Daina Dale, Chairman Bob Romano, Terry Kulinski, Tony Aukstikalnis, Kathy Sheplin, and Mayor Jonathan Oldham** all voted **Yes** to deny.

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**Application – 2020:02 – 1 Thomas Ave. – John Marshall**

**Richard Visotcky** with **Kelly and Visotcky LLC** was sworn in. **Mr. Visotcky** is representing the applicant and property owner **John Marshall**.

**The following was entered into evidence:**

**A1 – Application**

**A2 – Survey prepared by Horn Tyson and Yoder**

**A3 – Architectural Plans prepared by Jay Madden**

**A4 – Elevation Plan by Jay Madden**

**A5 & A6 – Photographs of 1 Thomas Avenue.**

**B1 – Engineer Review Letter prepared by Owen Little & Associates**

**Mr. Visotcky** explained that the history to the property is the key to this application. He shared that the former owner in 1989 hired a builder, **Bob Parker**, to build the house. After hiring the builder, the owner of the home was unable to pay for the services. **John Marshall**, the applicant, paid the builder for the previous owner. Since **Mr. Marshall** paid for the construction, the previous owner deeded the property over to him. **Richard Visotcky** explained that since 1989 the applicant has never had rentals and has used the property as a residence. At this time, the applicant is trying to sell the home and is looking to clear up any violations on the home. **Mr. Visotcky** stated that there are some things that were done without permits, but the home is almost the same as it was 30 years ago.

Prior to discussing the application further, **Stuart Snyder Esq.** shared that the board will act as a Zoning Board due to the request for a D variance. The application required five affirmative votes and both **Mayor Jonathan Oldham** and **Commissioner John Imperiale** are ineligible to vote.

**John Marshall** was sworn in. The applicant revisited the history of obtaining the home. **Mr. Marshall** explained that he did renovations and hired a contractor to complete the interior of the home. He confirmed that he did not do any exterior renovations but had a second contractor construct railings on the decks. **Mr. Marshall** shared that he had permits and a certificate of occupancy at that time. **Richard Visotcky** questioned if anyone is currently living in the home. **Mr. Marshall** confirmed that no one is currently living in the home.

**Jay Madden** was sworn in. **Mr. Madden** detailed that the air conditioning unit will be moved to the roof and the additional compressor will require variance relief due to its location. **Richard**

**Visotcky** stated that the railings on the roof trigger one of the variances being requested. **Jay Madden** confirmed that the railings on the roof trigger the variance and that the rooftop deck is non-functioning. Per **Mr. Visotcky**, the applicant placed the railing on the roof area to ensure no individual would jump. **Mr. Madden** explained that there is only a four-foot height between the roof and the deck below. The applicant placed the railing strictly for safety reasons and the roof is not accessible.

**James Brzozowski** with **Horn Tyson and Yoder** was sworn in. **Mr. Brzozowski** is responsible for preparing the variance plan for this application. He stated that the applicant is not proposing any new construction and everything on the plan has already been constructed. **Mr. Brzozowski** shared that the home has nine existing non-conformities and reviewed them with the board. The non-conformities include a side yard setback of 8ft, a rear yard setback of 9.6ft, 11.3ft to the mean high-water line, floor area ratio of 54.4%, the height of the building is 36.1ft, the railings on the roof are 33.9ft, and the width of the driveways are 27ft and 39ft. **Richard Visotcky** added that all of the non-conformities are pre-existing except the non-conformities caused by the spiral staircase.

**Richard Visotcky** explained that the applicant is seeking a certificate of occupancy in order to sell the property.

Public portion was opened.

Public portion was closed.

**Kathy Sheplin** questioned if the applicant had ever had a certificate of occupancy. **John Marshall** confirmed that he did have a CO in 2005 to remove the solid walls around all of the decks.

**John Tilton** made a motion to approve the application, seconded by **Tony Aukstikalnis**. The following vote was recorded **John Tilton, Daina Dale, Chairman Bob Romano, Terry Kulinski, Tony Aukstikalnis, Kathy Sheplin, and Craig Coddington** all voted **Yes** to approve.

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#### **Application – 2020:09 – 2 E. 70<sup>th</sup> Street – Walters Design-Build LLC**

Prior to hearing the application, **Kevin Quinlan Esq.** replaced **Stuart Snyder Esq.** on the board due to conflict.

**Richard Visotcky** with **Kelly and Visotcky LLC** was sworn in. **Mr. Visotcky** is representing the applicant, **Walters Design-Build LLC**.

**John Freeman** with **Najarian Associates** was sworn in.

Prior to hearing any testimony, **Kevin Quinlan Esq.** explained that even though the applicant has been before the board with a similar application, the board and public must see this application as separate.

**John Freeman** prepared the variance plan for the application. The lot is situated on the corner of 70<sup>th</sup> Street and Long Beach Boulevard. **Mr. Freeman** explained that the applicants are proposing to move the existing firepit to the front of the side yard and position the proposed 10x24ft pool towards the rear. The pool will be situated 10ft from Long Beach Boulevard where 25ft is required. The pool will be 8ft from the main part of the home, 6ft from the chimney area, and 5ft from a second-floor deck. **Mr. Freeman** stated that the second-floor deck will have a 5ft safety railing.

**The following was entered into evidence:**

**A1 – Application**

**A2 – Variance Plan – Najarian Associates**

**A3 – Architectural Plan – Walters Architecture**

**A4 – 3 Photos of Property**

**B1 – Engineer Review Letter prepared by Owen Little & Associates**

**Arnold Boyle** with **Walters Architectural** was sworn in. **Mr. Boyle** was responsible for preparing the architectural plans. He explained that the dotted circle on the plans highlights the 8ft radius from the corner of the pool and was used to establish where the cable railing will be raised on the second-floor deck. **Mr. Boyle** also described the proposed landscaping details that will be placed on the east and south side as a buffer.

**John McDonough**, a licensed professional planner, was sworn in. **Mr. McDonough** reviewed the variance that the applicant is requesting. He stated that the use is permitted in the zone and they are seeking relief on the location of the proposed accessory. **Mr. McDonough** shared that of the multiple variances, the C2 would be a fitting option for this application. In his opinion, the proposed pool location presents a better zoning alternative. He continued to explain that they are seeking relief from the distance to the boulevard and the offset from the house.

**Terry Kulinski** questioned if the vegetation on the boulevard side of the property will stay. **Mr. McDonough** confirmed that it will be staying.

**Tony Aukstikalnis** shared that the application submitted before the board lists that they are seeking a variance due to a hardship. **Richard Visotcky** clarified that when he submits an application to the board, he always selects hardship and C2 due to the different criteria. **Tony Aukstikalnis** questioned **Mr. Visotckys** position on the selection after going through the application. **Mr. Visotcky** stated that he will follow **John McDonough's** recommendation of C2. **Tony Aukstikalnis** requested the opinion of the Chairman and board attorney regarding the C2 designation.

**Chairman Bob Romano** shared that he believes the benefits outweigh the detriments in the application. With factors such as the uniqueness of the lot and the pool being in the best possible

location, **Chairman Romano** accepted the C2 variance.

**Kevin Quinlan Esq.** explained that as a jurisdictional issue, it does not matter what the applicant marks off on the application. He detailed the different variances that were available and agreed that a C2 variance is appropriate for this application.

**Jim McDonough** stated that in his opinion this is a textbook C2 application.

**Edward Walters** with **Walters Design** was sworn in. **Mr. Walters** is the builder of the home and confirmed to the board that the safety railing will be placed on the second-floor deck and that landscaping will be added to buffer noise. **Edward Walters** shared with the board that the week prior to the meeting, a potential buyer signed a contract to buy the home with the condition of getting the pool approved.

**Tony Aukstikalnis** requested confirmation on why they did not approach the board prior to building the home. **Mr. Walters** explained that their intent initially was not to build a pool but it was found that more people are seeking homes with pools.

Public portion was opened.

**Jill Frost** – 4 E 70<sup>th</sup> Street – was sworn in. **Ms. Frost** requested **John McDonough** explain how the west side of the property is the better option for the pool if there is no option to place the pool on the east side. **Mr. McDonough** explained that the westside is the better option in this circumstance because it is a corner lot and allows for more privacy along Long Beach Boulevard. Continuing with her testimony, **Ms. Frost** shared with the board that this property was a clean slate and they could have positioned the home or pool anywhere on the property. In her opinion she believes that the applicants utilize variances to get their way and manipulate requirements. She expressed to the board that she hopes the board will protect the homeowners and the feel of Harvey Cedars.

**Dr. Jason Nadulman** – 2 E. 70<sup>th</sup> Street – was sworn in. **Dr. Nadulman** is the potential new owner of the home at 2 E. 70<sup>th</sup> Street. He has been looking for a home on Long Beach Island for multiple years and is interested in purchasing the new home. **Dr. Nadulman** explained that he currently lives in a development that does not allow pools and is looking to purchase the home under the condition that the pool gets approved. He has small children that will utilize the pool.

Public portion was closed.

**Commissioner John Imperiale** commented that it is impossible to not be swayed by **John McDonough's** testimony. He explained that the pool on the Long Beach Boulevard side of the property makes perfect sense and he does not see any reason to not allow the pool.

**Tony Aukstikalnis** believes that if the plans for the pool had been presented to the board prior to the house being built, the board would be more receptive to the application.

**Terry Kulinski** appreciated the changes that were made to this application. With the lot being a blank canvas, she explained that she also feels the plans for the pool would have been better at the beginning.

**John Tilton** explained that individuals come before the board because they run into issues and it is not our job to punish them because they didn't include a pool on the early plans.

**Kevin Quinlan Esq.** shared that this reflects back on the discussion of the C1 and C2 variance. He explained that this is not a hardship because it was created so it would not qualify as a C1. With a C2 variance, a hardship is not required and it would focus on the uniqueness of the lot, detriments, and nature of lot. **Mr. Quinlan** asked the board to focus on the C2 variance.

**Mayor Jonathan Oldham** commented that swimming pools are only getting more popular. One of his main concerns was the distance between the pool and the structure, but it has been addressed. He continued to explain that he does not believe that a home should be penalized due to having two front yards.

**Daina Dale** expressed similar concerns over the pool being proposed after the house was built.

**Kathy Sheplin** expressed concern on the slim area the pool will be occupying.

**Commissioner John Imperiale** made a motion to approve the application, seconded by **John Tilton**. The following vote was recorded **John Tilton, Chairman Romano, Mayor Oldham, Commissioner Imperiale, and Craig Coddington** all voted **Yes** to approve. **Daina Dale, Terry Kulinski, Tony Aukstikalnis, and Kathy Sheplin** all voted **No** to deny the application. The application was approved.

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#### **Application – 2020:10 – 5305B Long Beach Blvd. – Donald Yick & Nancy Tom**

Prior to hearing the application, **Kevin Quinlan Esq.** recused himself and **Stuart Snyder Esq.** resumed board business.

**Richard Visotcky** with **Kelly and Visotcky LLC** was sworn in. **Mr. Visotcky** is representing **Donald Yick and Nancy Tom**, the owners of 5305B Long Beach Boulevard. He explained that the applicants are looking to utilize the space that they have and add a rooftop deck with a stairwell. There will be no increase in lot coverage. **Mr. Visotcky** added that the applicants are requesting one variance for an existing side yard set-back of 8 feet.

**The following was entered into evidence:**

**A1 – Application**

**A2 – Variance Plan – Horn, Tyson, & Yoder**

**A3 – Architectural Plan – Jay Madden**

**A4 – Photos of Property**

**B1 – Engineer Review Letter prepared by Owen Little & Associates**

**Jay Madden** was sworn in. **Mr. Madden** is responsible for preparing the architectural plans for the application. He described the home as an elevated two-story reverse living structure. The proposed staircase for the roof-top deck will be placed on-top of an existing staircase within the home. **Mr. Madden** confirmed that the roof-top deck will be over existing structure.

**James Brzozowski** with **Horn, Tyson, and Yoder** was sworn in. **Mr. Brzozowski** is responsible for preparing the variance plan. He began his testimony detailing the non-conformities of the property. The non-conformities include an 8ft side yard and rear yard setback, floor area ratio is 62.5%, and the lot coverage is 41.8%. He explained that they will utilize an exiting stair tower to access the propose roof-top deck. **Mr. Brzozowski** does not feel there would be any detriment and believes it will benefit the property.

Public portion was opened.

Public portion was closed.

**Craig Coddington** requested clarification on why the variance is being requested if they are utilizing the existing structure. **Jay Madden** explained that when something is added on top of something it is technically adding to the non-conformity.

**Tony Aukstikalnis** made a motion to approve the application, seconded by **John Tilton**. The following vote was recorded **John Tilton, Daina Dale, Chairman Romano, Terry Kulinski, Tony Aukstikalnis, Kathy Sheplin, Mayor Oldham, Commissioner Imperiale, and Craig Coddington** all voted **Yes** to approve.

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**Minutes – Regular Meeting – July 16, 2020**

**Terry Kulinski** made a motion to approve the minutes, seconded by **Tony Aukstikalnis**. The following vote was recorded **John Tilton, Chairman Romano, Terry Kulinski, Tony Aukstikalnis, Kathy Sheplin, Mayor Oldham, and Commissioner Imperiale**, all voted **Yes** to approve.

**Minutes – Regular Meeting – August 20, 2020**

**Commissioner John Imperiale** made a motion to approve the minutes, seconded by **Terry Kulinski**. The following vote was recorded **John Tilton, Chairman Romano, Terry Kulinski, Tony Aukstikalnis, Mayor Oldham, Commissioner Imperiale, and Craig Coddington** all voted **Yes** to approve.

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The board will continue to review and discuss the Master Plan during future meetings.

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At 10:53PM the meeting was adjourned.

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Respectfully submitted,

Christine Lisiewski, Secretary