

**BOROUGH OF HARVEY CEDARS
LAND USE BOARD**

**Regular Meeting – Minutes
November 19, 2020**

A regular meeting of the Land Use Board of the Borough of Harvey Cedars was held in the meeting room at the Borough Hall, 7606 Long Beach Boulevard, Harvey Cedars, New Jersey on the above date.

The meeting was called to order by **Chairman Bob Romano** at 07:01 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: **Mark Simmons, John Tilton, Chairman Robert Romano, Terry Kulinski, Tony Aukstikalnis, Mayor Jonathan Oldham, Kathy Sheplin, and Commissioner Imperiale.**

Members of the Board absent: **Daina Dale**

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

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

Also present were the following: **Stuart Snyder, Esq. and Frank Little, PE**

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Application – 2020:12 - 6405A Long Beach Boulevard – Donald Burnaford

Donald Burnaford, the applicant, was sworn in.

The following was entered into evidence:

A1 – Application Document

A2 – Plot Plan of Survey by Nelke/Tyszka Land Surveyors, LLC

A3 – Photo of Proposed Pergola

A4 – Photo of Proposed Pergola Location

A5 – Photo of 2nd Floor Deck

B1 – Engineer Review Letter by Frank Little, PE

Donald Burnaford shared with the board that he is seeking to construct a three-sided aluminum pergola with a cedar ceiling that is attached to the home and located on the second-floor deck. **Mr. Burnaford** is before the board due to a non-conforming side-yard setback. The proposed pergola would allow for privacy on the second-floor deck.

Stuart Snyder requested confirmation on any issues the pergola would cause to light and air for

neighboring properties. **Mr. Burnaford** confirmed that there would be no adverse effects.

Mayor Jonathan Oldham questioned the use of the east neighboring property and if there is anything located on it. **Donald Burnaford** stated that it is two empty lots that are deeded to the High Barbaree Association as recreation. The lots are used for recreational activities such as volleyball.

Chairman Robert Romano asked if there were any other plans for improvement on the deck area. **Donald Burnaford** said that the deck has been brought up to date will have matching consistent railings.

Public Portion was opened.

Public Portion was closed.

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

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#### **Resolution – 2020:11 - 5619 Holly Avenue – 5619 Holly Ave LLC**

**Stuart Snyder** read and reviewed Resolution of Memorialization with the board.

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

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Prior to Master Plan discussion, **Stuart Snyder Esq.** informed the board that docket number 2019:08 was remanded back to the Harvey Cedars Land Use Board on a remand from Judge Marlene Lynch Ford. The applicant and their counsel plan on returning to the board within the next upcoming meetings.

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#### **Minutes – Regular Meeting – October 15, 2020**

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

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Moving forward with Master Plan discussion, **Frank Little** reviewed the different uses permitted in the various zones throughout Harvey Cedars. **Mr. Little** asked the board to review the different uses and determine if anything needs to be added or if they find the current permitted uses appropriate.

With COVID-19 forcing the restaurants in the borough to provide outdoor seating, **Mr. Little** suggests that the board discuss if outdoor seating will remain.

The Board of Commissioners is working to develop and outline the duties of a potential three-person committee that would review applications instead of coming before the Land Use Board. **Stuart Snyder** shared that currently Beach Haven is the only other location on Long Beach Island to offer this option. **Frank Little** added that the Master Plan will mention this committee to enforce the idea. **Mayor Jonathan Oldham** explained that they are currently working with the borough attorney to draft up what can be done by this committee. He added that the main goal is to help businesses get started and alleviate some of the cost.

Commissioner John Imperiale returned back to the discussion on the various zones within Harvey Cedars. Since the borough is two miles long, **Commissioner Imperiale** asked **Frank Little** if the large number of different zones is logical. He added that with the borough being so small, it doesn't make sense for one business to be permitted on one end but not the other. **Frank Little** explained that you would have to look at the surrounding neighborhoods to see what makes sense within the certain zones. **Commissioner Imperiale** emphasized that the marine commercial district may need to be looked at because the borough currently has an empty storefront in that location due to the permitted uses. He added that the current owner of the property has lost potential tenants to neighboring towns due to the permitted uses of the district. **Stuart Snyder** shared that he does not believe the tenants are going to other areas. He shared that the Borough of Harvey Cedars is user friendly compared to the other island areas. **Mr. Snyder** represents other boards on the island and believes that the Harvey Cedars Land Use Board provides a "fair shot" for an approval. In continuing the discussion of the three-person committee, **Mr. Snyder** explained that it will help with the cost for residents and business owners but the committee will need to follow the municipal land use law.

Chairman Robert Romano mentioned the previous Master Plan discussion of abandonment of uses and the length of time uses are abandoned. **Stuart Snyder** added that the ordinance details that the timeline is 12 months but intent needs to be shown. Per **Mr. Snyder**, abandonment is defined by the local ordinance not by the municipal land use law.

Public Portion was opened.

Joseph Geiger – 6 E 77th Street – wanted to bring the safety issues that are caused by the "hodge-podge" of different sidewalks through town to the board's attention. He explained that there is no safe continuing sidewalk or rationale to what they are doing. **Mr. Geiger** gave examples of different paving jobs that were done around town but they were then asked to tear up the paving when the county needed to work on sections of Long Beach Boulevard. He continued to share examples of sections of sidewalk that run into plantings or drop off into

nothing. With the sidewalks being in disarray, **Mr. Geiger** requested information on who is responsible for the sidewalks and who enforces any safety violations. **Frank Little** explained that the property owner is responsible for their sidewalk and they would seek permits from the county.

Jonathan Oldham shared that he instructed **Frank Little** to design where the sidewalks should be located throughout town. **Mayor Oldham** believes that the sidewalk materials throughout the borough should remain consistent. He explained that he would like to put together a committee to determine what would work best and gauge what would work best for the businesses.

Stuart Snyder Esq. added that when an application comes before the board, the applicant is required to make sure that their sidewalks meet a certain standard. **Mr. Geiger** questioned the towns standard and who would enforce them. **Frank Little** explained that the Code Enforcement Officer would be responsible for notifying the business that their sidewalks are hazardous.

Mayor Jonathan Oldham asked **Mr. Geiger** if he had any interest in joining a committee that would determine standards and materials for sidewalks. **Mr. Geiger** showed interest in the committee and thinks it would be a good start in the right direction.

Steven Sepanak – 6332 Long Beach Boulevard – owns a property located within the marine commercial district. **Mr. Sepanak** believes there is an issue with the marine commercial zone and abandonment. Referencing a Master Plan document that the town engineer provided the board, **Mr. Sepanak** explained how the specifications of the marine commercial zone comes off as “protectionist, limiting, and exclusionary”. He questioned the board on the reasoning behind the specifications. **Frank Little** stated that you need to look at the marine commercial zone as a whole. The zone is in place for marina type businesses and low impact commercial. **Steven Sepanak** shared that he has had many tenants approach him but they go elsewhere once they are told they need to come before the board due to a change of use. Per **Mr. Sepanak**, the property has remained vacant for four years because of the process the potential tenant would need to go through.

Steven Sepanak also finds an issue with the definition of abandonment. He explained that it is different in a primary market and resort market. **Mr. Sepanak** shared that it is not uncommon that vacancies will appear due to individuals only occupying businesses during the summer months. **Stuart Snyder Esq.** stated that the businesses that are empty are not being abandoned. He believes that most of them are actively looking for a tenant. **Mr. Sepanak** questioned why his tenants are being diverted to the land use board if his building is vacant. **Mr. Snyder** explained to **Mr. Sepanak** that in order to avoid the board, the use of the space must remain the same. He continued to explain that **Anna Grimste**, the borough zoning officer, would make the call on whether or not the tenant would need to come before the board. **Mr. Sepanak** stated that the zoning officer is stuck utilizing the current zoning and that is the issue. He believes the zoning needs to be changed for the marine commercial zone.

Stuart Snyder Esq. suggested to **Mr. Sepanak** that if he finds a good tenant, he should help them through the process of going before the board. **Steven Sepanak** shared that the feedback

that he consistently hears from possible tenants is that they don't want to risk "four months of time or money". **Mr. Snyder** explained that unless there was a hold-up with engineering, the application process does not take four months.

Public Portion was closed.

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

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At 08:25PM the meeting was adjourned.

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Respectfully submitted,

Christine Lisiewski, Secretary