

**RESOLUTION OF MEMORIALIZATION OF THE
LAND USE REVIEW BOARD OF THE BOROUGH OF HARVEY CEDARS
COUNTY OF OCEAN AND STATE OF NEW JERSEY
DOCKET NO. 2019:01 SD/V**

WHEREAS, Wendy W. Clarke, 8202 Associates, LLC and Justin Monnig have made application to the Land Use Board of the Borough of Harvey Cedars to subdivide properties known and designated as Lots 2, 2.01, 3, and 3.01 Block 71, 6 & 10 Kinsey Lane, Harvey Cedars, Ocean County, New Jersey into two (2) new upland lots each with a riparian lot appurtenant thereto. “Proposed Lot 2 and Proposed Riparian Lot 2.01” will contain 5,616.00 square feet, with 5,081.80 square feet upland. “Proposed Lot 3 and Proposed Riparian Lot 3.01” will contain 6,500 square feet, with 5,047.9 square feet upland. Both lots will remain improved with single family homes, they each will meet lot frontage and lot area requirements; variances are being requested for certain setbacks as set forth below; and

WHEREAS, the Land Use Board considered this application at a public hearing on February 21, 2019. The applicant was represented by Deidre M. Martin, Esq. The application dated December 21, 2018 was entered into evidence as Exhibit A-1; the plan prepared by Horn, Tyson & Yoder, Inc. titled “Minor Subdivision Lots 2, 2.01 & 3, 3.01, Block 71 Tax Map Sheet #8 Borough of Harvey Cedars, Ocean County, New Jersey” dated October 15, 2018 under signature and seal of Robert G. deBlois, PLS, was entered into evidence as Exhibit A-2; a series of five (5) photographs of 6 Kinsey Lane, was entered into evidence as Exhibit A-3; a series of fourteen (14) photographs was entered into evidence as Exhibit A-4; copies of two (2) deeds of easement to Atlantic City Electric Company were entered into evidence as Exhibit A-5. The review letter from Owen, Little & Associates, Inc., under signature of Frank J. Little, Jr., dated January 15, 2019 was entered into evidence as Exhibit B-1. Testimony was offered by the James Brzozowski, applicants engineer and professional planner, Justin Monnig, one of the applicants, the contract purchaser of Proposed Lots 3 and 3.01; and Wendy Clarke the owner of the property and applicant, was present to answer any questions. Public comment was offered by John Depenbrock, the owner of 2 Kinsey Lane, Harvey Cedars, NJ, who spoke in favor of the application.

WHEREAS, the Land Use Board after considering the Application, documentation entered into evidence, testimony of the witness', argument of counsel and public comment has made the following factual findings:

1. All jurisdictional requirements have been met.
2. The property is located in the RA Single Family Residential Zone. The property consists of two (2) lots, each improved with a single family home; and having riparian lands appurtenant thereto. They both front on Kinsey Lane, existing Lot 2 maintains frontage of 34 feet and Lot 3 maintains frontage of 66 feet.
3. It is applicant's intention to subdivide the property to render each lot conforming to lot frontage and lot area; currently Lot 2 contains 3,456 square feet of upland area, less than the requirement of 5,000.00 square feet; Lot 3 exceeds the lot area requirement. Applicant proposes to relocate the interior lot line by relocating same 16 feet to the west; whereupon each lot will have 50.00 feet of frontage on Kinsey Lane.
4. The subdivision as proposed will create an encroachment of the existing garage currently locate upon and servicing Lot 3. Applicant proposes to demolish the garage, eliminating any encroachment. Applicant is under contract to sell Proposes Lots 3 and 3.01 to Justin Monnig; Mr. Monnig testified that his purchase is contingent upon the removal of the garage. The subdivision plan Exhibit A-2 also reflects that the garage will be removed.
5. The current Lots maintain nonconforming conditions. Lot 2 maintains nonconforming side yard setbacks of 2.7 feet and 7 feet, with a setback of 0.2 feet to the air conditioner platform. The garage is located in the front yard which is not permitted and maintains a nonconforming front yard setback of 5.7 feet. Building coverage, impervious lot coverage and floor area ratio are nonconforming. Lot 3 maintains a nonconforming side yard setback of 4.00 feet; the two (2) garages are located in the front yard

setback which is not permitted; at nonconforming front yard setbacks of 5.6 feet and 5.4 feet.

6. The subdivision as proposed will create two (2) lots each conforming to Lot width and Lot frontage requirements of 50 feet. The nonconforming front side yard setback of 7 feet; the nonconforming building coverage, impervious lot coverage and floor area ratio will be eliminated at Lot 2. The nonconforming garage located in the front yard at a setback of 5.7 feet and the nonconforming side yard setback of 2.7 feet will remain at Lot 2. One of the garages within the front yard setback of Lot 3 is being eliminated; the other garage with a front yard setback of 5.6 feet will remain; the nonconforming rear yard setbacks of 13.9 feet where 15 feet is required will remain; the nonconforming side yard setback of 4 feet will remain and a nonconforming side yard setback of 7.5 feet will be created at Lot 3. Notwithstanding the reduction of lot area at Lot 3, the building coverage, impervious lot coverage and floor area ratio will remain in conformity.
7. The Board adopts the contents of the January 15, 2019 letter of Owen, Little and Associates, Inc., Exhibit B-1, as if set forth herein at length.
8. Numerous nonconforming conditions are being eliminated; with one (1) nonconformity, a 7.5 foot side yard setback where 10 feet is required, at Lot 3.

WHEREAS, the Land Use Board of the Borough of Harvey Cedars has determined that the relief requested by the applicants, Wendy W. Clarke, 8202 Associates, LLC and Justin Monnig have made application to the Land Use Board of the Borough of Harvey Cedars to subdivide properties known and designated as Lots 2, 2.01, 3, and 3.01 Block 71; 6 & 10 Kinsey Lane, Harvey Cedars, Ocean County, New Jersey into two (2) new upland lots each with a riparian lot appurtenant thereto in accordance with the plan prepared by Horn, Tyson & Yoder, Inc. entered into evidence as Exhibit A-2, can be granted without substantial detriment to the public good and without impairing the intent and purposes of the zone plan and zoning ordinances of the Borough of Harvey Cedars. The lots will both conform to Lot area, Lot frontage and Lot width requirements;

numerous existing nonconforming conditions are being eliminated, with only one (1) nonconforming condition being created, and an improved parking plan for Lot 2 is being created, whereupon the benefits to this application substantially outweigh any detriment whereupon applicant has satisfied the criteria of NJSA 40:55D-70 c. 2.

NOW, THEREFORE, BE IT RESOLVED by the Land Use Board of the Borough of Harvey Cedars that the application of Wendy W. Clarke, 8202 Associates, LLC and Justin Monnig to subdivide properties known and designated as Lots 2, 2.01, 3, and 3.01 Block 71, 6 & 10 Kinsey Lane, Harvey Cedars, Ocean County, New Jersey into two (2) new upland lots each with a riparian lot appurtenant thereto in accordance with the plan prepared by Horn, Tyson & Yoder, Inc. entered into evidence as Exhibit A-2, be and hereby is, conditionally approved.

BE IT FURTHER RESOLVED that this approval is subject to and conditioned upon applicant removing the garage as reflected on the plan.

BE IT FURTHER RESOLVED that in the event either or both of the existing houses are ever demolished, any new homes constructed upon the lots shall conform to the zoning requirements in effect at that time, unless variance relief is granted.

BE IT FURTHER RESOLVED that this approval is subject to and conditioned upon Applicant's compliance with all terms and conditions of the letter of the Board Engineer, Frank J. Little, Jr., P.E., P.P., C.M.E., January 15, 2019.

BE IT FURTHER RESOLVED that this approval is subject to and conditioned upon any future development at the site conforming to FEMA requirements and all building, zoning; fire and safety Codes.

BE IT FURTHER RESOLVED that this approval is subject to and conditioned upon Applicant obtaining all requisite permits and Applicant complying with all Federal, State and Local rules regulations and statutes and ordinances effecting this development.

BE IT FURTHER RESOLVED that this approval is subject to and conditioned upon applicant obtaining all outside agency approvals from all agencies having jurisdiction over this development; including but not limited to the Harvey Cedars Water and Sewer Department, Ocean County Soil Conservation District, if applicable; and the Ocean County Planning Board, as required.

BE IT FURTHER RESOLVED that this approval is subject to and conditioned upon Applicant's payment of all taxes and all other applicable assessments, and Applicant satisfying all fees and escrow fees as may be required. Applicant shall also pay and post all inspection fees, performance guarantees and maintenance bonds as may be required, in amounts established by the Borough Engineer, and in such form as required by the Borough Solicitor.


BE IT FURTHER RESOLVED that this approval is subject to applicant obtaining verification of the lot numbers from the Borough Tax Assessor; and setting monuments in accordance with the New Jersey Map Filing Law.

BE IT FURTHER RESOLVED that this approval is subject to the filing of the Subdivision Map with the Ocean County Clerk within 190 days of this approval, additional copies of the map shall be submitted to the Borough Officials, including, but not limited to the Borough Clerk, as required for processing

BE IT FURTHER RESOLVED that the Applicant is required to comply with all ordinances of the Borough of Harvey Cedars, and failure to specify compliance herein shall not be deemed a waiver or recommendation by the Land Use Board with respect to Borough Ordinances, including the Zoning Ordinances.

BE IT FURTHER RESOLVED that this approval is subject to all conditions as set forth herein and as placed on the record at the public hearing conducted on February 21, 2019 when this matter was considered.


BE IT FURTHER RESOLVED that this approval is subject to and conditioned upon Applicants' compliance with the Ordinances of the Borough of Harvey Cedars, as applicable, with respect to bonding, guarantees, inspection costs and payment of such fees as may be related thereto, including escrow fees as to this application and as may be required by the Board Engineer/Planner and/or Construction Official and/or Secretary to the Board and/or Clerk of the Borough. Any guarantees shall be subject to the written review and approval of the Board Engineer/Planner, the Borough Attorney's office and the Mayor and Commissioners.

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MARY PAT BREARLY, SECRETARY

-CERTIFICATION-

I, MARY PAT BREARLY, Secretary of the Land Use Review Board of the Borough of Harvey Cedars, County of Ocean and State of New Jersey, do certify that the foregoing is a true copy of a Resolution adopted by the Land Use Review Board of the Borough of Harvey Cedars at a public meeting held on March 21, 2019.

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MARY PAT BREARLY, SECRETARY