

**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. 2022-05**

**WHEREAS**, Michael Kapnick and Mark Kapnick have made application to the Land Use Review Board of Harvey Cedars for Minor Subdivision approval without variances for Lots 5 and 5.01 in Block 74. The applicant proposes to demolish the existing triplex and re-subdivide the property to create two lots. The resulting lots will be conforming. No variances are required.

**WHEREAS**, the Application has been deemed complete and jurisdictional requirements of N.J.S.A. 40:55D-12 have been satisfied in that notice of this application has been given to all property owners within two hundred (200') of the property in question and notice of this application has been duly published in the official newspaper of the Borough, all as required by law; and

**WHEREAS**, the Harvey Cedars Land Use Board has received a report from its Engineer, Frank J. Little, Jr. PE, dated May 16, 2022, which report was duly marked as Exhibit B-1 in evidence at the time of the public hearing conducted 5/19/22, and is specifically incorporated herein by reference; and

**WHEREAS**, the property lies within the RA-Single Family Residential Zone.

**WHEREAS**, the Applicant proposes demolishing the existing triplex and re-subdividing the property to create two lots, one being a flag lot. No variances are sought.

**WHEREAS**, the following exhibits were admitted into evidence:

- A-1 Application.
- A-2 Minor Subdivision Map prepared by East Coast Engineering Inc. dated 04/28/2022 with no revisions.
- A-3 Survey Map with Topography prepared by East Coast Engineering Inc., dated 3/21/22 with no revisions.
- A-4 Color Photos (11)
- A-5 Utility Easement and Riparian Grant.
- B-1 Board engineer review letter prepared by Frank Little, P.E., P.P. CME, dated 5/16/22.

**WHEREAS**, Jason M. Marciano, P.E., P.P. was sworn and qualified as an expert in

professional planning and engineering and testified as follows:

1. The new lots would comply with all bulk requirements and no variances are required.
2. The current structure is non-conforming in rear and side yard setback and use. Proposed dwelling will be in compliance with bulk requirements and bring the property more into compliance.
3. Property line between lot 5.02 and 5.03 shall be shifted two (2) feet to the north.
4. Plan to be revised to make the following changes:
  - a. Remove reference to variance relief in zoning table.
  - b. Seventeen (17) foot driveway to run along the new lot 5.03. Driveway may not be used to satisfy off-street parking requirement.
  - c. Easterly side yard setback on new lot 5.02 to be seventeen (17) feet.

**WHEREAS**, the meeting was opened to the public. Two interested parties appeared.

**WHEREAS**, the Land Use Board, after considering the Application, exhibits, witness testimony and arguments of counsel made the following factual findings:

1. All jurisdictional requirements have been met.
2. The Applicant is represented by Deidre M. Martin, Esq.
3. The Applicants, Michael Kapnick and Mark Kapnich are the contract purchasers of the subject property and makes this Application with the consent of the owner Richard and Jeanette Merion Joint Revocable Trust.
4. The proposed lots will comply with all applicable ordinances and no variances are required.
5. The Applicant shall file a sub-division map with the Ocean County Clerk.

**NOW, THEREFORE, BE IT RESOLVED** by the Land Use Review Board of Harvey Cedars that the application for minor subdivision approval without variances for Lots 5 & 5.01 in Block 74, in the Borough of Harvey Cedars, County of Ocean and State of New Jersey is hereby approved.

\*Subject to approval of the new lot numbers by the Tax Assessor of the Borough of Harvey Cedars.

**BE IT FURTHER RESOLVED** that this approval is subject to and conditioned to Applicant's compliance with all terms and conditions of the letter of the Board Engineer, Frank J.

Little, Jr. P.E., P.P., and C.M.E., dated 5/16/22, entered in evidence as Exhibit B-2.

**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, statutes and existing ordinances effecting this development and proposed use.

**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.

**BE IT FURTHER RESOLVED** that this approval is subject to and conditioned upon Applicants' 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 the applicant is required to comply with all existing 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 approval of the proposed new lot numbers by the Harvey Cedars Tax Assessor.

**BE IT FURTHER RESOLVED** that this approval is conditioned upon the Applicant filing a subdivision map in a form acceptable to the borough engineer and/or board engineer, with the Ocean County Clerk's Office.

**BE IT FURTHER RESOLVED** that this approval is subject to all conditions and representations as set forth herein and as placed on the record at the public hearing conducted on May 19, 2022 when this matter was considered.

**BE IT FURTHER RESOLVED** that this approval is subject to and conditioned upon applicants complying with all technical revisions and submissions as the Borough Engineer may require.

  
**CHRISTINE LISIEWSKI, SECRETARY**

**CERTIFICATION**

I, **CHRISTINE LISIEWSKI**, 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 approved and memorialized at the May 19, 2022 regular public meeting of the Land Use Review Board of the Borough of Harvey Cedars.

  
**CHRISTINE LISIEWSKI, SECRETARY**