

**BOROUGH OF HARVEY CEDARS
LAND USE BOARD**

**Regular Meeting – Minutes
September 19, 2019**

A Regular Public Meeting of the Land Use Board of the Borough of Harvey Cedars was held in the Meeting Room in the Borough Hall, 7606 Long Beach Blvd., Harvey Cedars, New Jersey on the above date.

The meeting was called to order by Chairman Bob Romano at 07:04 PM. The Chairman asked all to rise for the Pledge of Allegiance.

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: **Chairman Romano, Mayor Jonathan Oldham, Commissioner Garofalo, Daina Dale, Mark Simmons, John Tilton, Tony Aukstikalnis, and Terry Kulinski**
Members of the Board absent: **Paul Rice**

Alternate members of the Board present: **None**

Alternate members of the Board absent: **Kathy Sheplin and Sandy Marti**

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

~~~~~

**Application – 2019-05 William & Amy Sheffield, 12 E. Burlington Ave., Block 24 Lot 10**

**Mr. Snyder** explained that this application was to be heard at the August 15<sup>th</sup> meeting but was carried due to lack of quorum.

After being sworn in, **Mr. William Sheffield**, applicant, introduced himself and explained his application before the board. The applicant seeks a variance from the substance of the board’s interpretation of the ordinance. While explaining, **Mr. McGowan**, attorney for neighbor, interjected and asked the board for further clarification.

**Mr. McGowan** requested further clarification on what is being requested. Jurisdiction of the applicant was also questioned due to the spouse also being listed on the application but not being present.

**Mr. Sheffield** acknowledged co-ownership and his wife’s agreement to move forward with his application.

**The following was entered into evidence:**

A1 – Application

B1 – Letter from Engineer

**Mr. Sheffield** re-explained the June 20<sup>th</sup> meeting and the boards decision on the interpretation.

**Mr. Snyder** stated that when you have yards, you need to have setbacks. For further clarification to the audience, he shared that the applicant is seeking relief on the property that is next to a borough owned piece of property and requesting to build to rear property line, ie. a zero setback.

The applicant shares that he was instructed to reach out to the borough’s attorney, Mr. Thomas Gannon. **Mr. Sheffield** is following the advice and seeking relief for two setbacks.

**Chairman Romano** asked the applicant to explain where the hardship is and what he is asking for.

In response to **Chairman Romano**, the applicant described the building line and the CAFRA process. **Mr. Sheffield** made it clear that if the ordinance that is in place is not enforced correctly, he will be seeking litigation. He explained some potential benefits for the town such as, not seeking litigation and will make his home a single-family (currently a duplex).

Before public portion was opened, **Mr. McGowan** added that he does not believe there is anything listed in the application that is sufficient for a variance request.

Public portion was opened.

**Mr. James (Jim) Hindle** – 8 E. Burlington – **Mr. Hindle** is a neighbor to the applicant. Explained his background in Harvey Cedars and why they chose to purchase where they did. **Mr. Hindle** expressed objection due to the proposed home blocking views, breezes and quality of life. He is concerned that what is being proposed would change the “characteristics” of his home.

**Mr. Nick Pappas** – 11 E. Passaic – **Mr. Pappas** is a neighbor to the rear of 12 E. Burlington Ave. **Mr. Pappas** is familiar with the issues **Mr. Sheffield** is running into due to recently building. **Mr. Pappas** appreciates the limits and regulations that are in place and they were important to him before he purchased the dune lot located behind his home.

**Mr. Patrick Greber** – 5 E. 80<sup>th</sup> Street – **Mr. Greber** stated that the boards purpose is to decide on hardships, not on maybes. He believes that hardships should be for needs, not for a potential home that may or may not be built in the future. Due to the applicant’s property and setback request, **Mr. Greber** believes this will cause an issue for the borough property located alongside 12 E. Burlington Avenue. He pointed out that if a zero setback is granted, it would open the borough up for liability if a contractor were to get hurt working or crossing borough property to access the home being constructed on the zero setback. He is not in favor of the application and hopes the board “sticks to their guns” regarding their decision on the initial interpretation.

Public portion was closed.

**Chairman Romano** asked the board for any questions or comments on the application.

**Mayor Oldham** clarified that the borough did not sell **Mr. Sheffield** the dune property.

**Tony Aukstikalnis** appreciated the forum from neighbors. Due to the public bringing up the potential loss of views, **Mr. Aukstikalnis** made it clear that the board does not take views into account when making their ultimate decision.

**Mr. Frank Little** believes that the lot before the board will in fact need setbacks. **Mr. Little** commented that a nice size home could be built on the property without seeking a variance.

Before voting, **Mr. Sheffield** offered some closing remarks on the potential home that may be built per board approval. He stated that the home would not have a negative impact on **Mr. Pappas**. The applicant explained that a builder approached him and offered a large sum of money. If **Mr. Sheffield** chooses to keep the property, financially he will not be able to build a large house.

Before voting on the application, the board was asked to explain their decision.

A motion was made to deny the application by **Tony Aukstikalnis**, seconded by **Terry Kulinski**.

**Mark Simmons** voted **Yes** to deny the application. He believes that the commissioners that put the ordinances in place intended there to be setbacks.

**John Tilton** voted **Yes** to deny to the application. **Mr. Tilton** shared that he thinks setbacks should be in place.

**Chairman Romano** voted **Yes** to deny the application. He mirrored the opinions of Mr. Tilton and Mr. Simmons but added that he does not believe this is a reasonable request. **Chairman Romano** explained that there was no testimony on the home that could potentially be constructed, only possibilities. Nor could he see how to build a house without trespassing on borough property and exposing the borough to liability.

**Terry Kulinski** and **Daina Dale** both voted **Yes** to deny the application. They both echoed the thoughts of fellow board members.

**Tony Aukstikalnis** voted **Yes** to deny the application. He believes the ordinance is clear.

**Commissioner Garofalo** voted **Yes** to deny the application. He does not feel comfortable voting on no set plan or zero set-backs.

**Mayor Oldham** voted **Yes** to deny the application. Shares similar opinions with board and believes that without seeking a variance the applicant has the potential of building a large home.

The following vote was recorded: **Mark Simmons, John Tilton, Chairman Romano, Terry Kulinski, Tony Aukstikalnis, Daina Dale, Commissioner Garofalo, and Mayor Oldham** all voted **Yes** to deny the application.

**Application – 2019-08 Pauline K. Herman Trust, 14 E. 81<sup>st</sup> Street, Block 80 Lot 9**

**Mr. Snyder** explained that the order of applications would be switched due to a jurisdictional issue.

**The following was entered into evidence:**

- A1 – Application
- A2 – Horn, Tyson, & Yoder Variance Map
- A3 – Robert Stack Architectural Plans
- B1 – Borough Engineer’s Review Letter

**Mr. Frank Little** stated that the board has no jurisdiction and is unable to hear the application. Variances cannot be granted for building or improvements east of the building line.

**Mr. James Raban**, attorney, was sworn in. **Mr. Raban** objected to the board not being able to vote on this application. Explained that the home was purchased and constructed before the building line was put into place.

**Chairman Romano** explained the purpose of the building line. The building line was placed for specific reasons, including safety.

**Mayor Oldham** added homes that are currently over the building line survived the storm of 1962.

**Mr. Little** stated that towns and boroughs decide on their building line. There needs to be a reason why the line would be moved. Nearby towns are moving their building lines in further away from the ocean.

**Mr. Snyder** concluded the discussion by adding that non-conforming structures beyond the building line cannot be enhanced. Home owners are allowed to maintain their properties, but making enhancements is contrary to the zoning ordinances.

Public portion was not opened, due to the board having no jurisdiction.

A motion was made by **Commissioner Garofalo** to refuse jurisdiction, seconded by **John Tilton**. The following vote was recorded, **Mark Simmons, John Tilton, Chairman Romano, Terry Kulinski, Tony Aukstikalnis, Daina Dale, Commissioner Garofalo, and Mayor Oldham** all voted **Yes** to refusing jurisdiction. Motion passed.

**Application – 2019-06 Mark & Linda Lipton, 6311E Long Beach Blvd., Block 38 Lot 19**

**Mr. Mark Lipton**, applicant, was sworn in. Applicant is looking to enclose an 11x11 deck that is currently enclosed on two sides. **Mr. Lipton** explained that in the current state it collects snow, water, and ice. If enclosure is approved, the room would not increase the structures footprint or height. **Mr. Lipton** is before the board due to being slightly short on side yard requirements.

The following was entered into evidence:

- A1 – Application
- A2 – Survey Map, prepared by J. Pierson dated July 7, 2019
- A3 – Architectural Plans prepared by Mark Lipton Associates dated July 17, 2019
- A4 – Aerial Photos
- A5 – Photos of house and proposed work
- B1 – Borough Engineer’s Review Letter

**Mr. Little** added that floor area ratio would not be an issue with this request.

Public portion was open. No one stepped forward. The Public portion was closed.

A motion was made to approve the application by **Mark Simmons**, seconded by **Commissioner Garofalo**. The following vote was recorded **Mark Simmons, John Tilton, Chairman Romano, Terry Kulinski, Tony Aukstikalnis, Daina Dale, Commissioner Garofalo, and Mayor Oldham** all voted **Yes** to approve. Motion passed.

**Application – 2019-07 John & Sharon Carroll, 4 E. 83<sup>rd</sup> Street, Block 82 Lot 12**

**Mr. John Carroll**, applicant, was sworn in. Applicant is requesting a variance to allow a 10x14 shed to be placed in his front yard. Setbacks on other side of the property will not allow him to place the shed elsewhere.

The following was entered into evidence:

- A1 – Application
- A1 – Plot Plan Survey Map
- A3 – Photo
- B1 – Borough Engineer’s Review Letter

Multiple board members questioned the design and structure of the proposed shed.

**Mr. Carroll** asked the board suggestions on what the shed should be placed on in order to comply with zoning regulations.

**Anna Grimste**, zoning officer, suggested a slab but shed will still need to be anchored.

Public portion was opened. No one stepped forward. The Public portion was closed.

A motion was made by **Mark Simmons** to approve the application with the agreement that the structure should not exceed 12ft x 16ft and be positioned at least 50 feet from the road, seconded by **Commissioner Garofalo**. The following vote was recorded **Mark Simmons, John Tilton, Chairman Romano, Terry Kulinski, Daina Dale, Commissioner Garofalo, Mayor Oldham** all voted **Yes** to approve with conditions. **Tony Aukstikalnis** voted **No**. Motion passed.

~ ~ ~ ~ ~

**Resolution – 2019-06 – Mark & Linda Lipton – 6311E Long Beach Blvd., Block 38 Lot 19**

Due to the August meeting of the board being carried, **Mr. Stuart Snyder** presented the Resolution of 2019-06. **Mr. Snyder** reviewed the Resolution and made corrections as needed per applicant and board input.

**Commissioner Garofalo** made a motion to accept the Resolution, seconded by **Tony Aukstikalnis**. The following roll call vote was recorded: **Mark Simmons, John Tilton, Chairman Romano, Terry Kulinski, Tony Aukstikalnis, Daina Dale, Commissioner Garofalo,** and **Mayor Oldham** all voted **Yes** to approve.

~ ~ ~ ~ ~

**Minutes – Regular Meeting – June 20, 2019**

**Terry Kulinski** made a motion to approve the minutes of the regular meeting on June 20, 2019, seconded by **Tony Aukstikalnis**. The following vote was recorded: **Mark Simmons, John Tilton, Chairman Romano, Terry Kulinski, Tony Aukstikalnis, Daina Dale,** and **Mayor Oldham** all voted **Yes** to approve.

**Minutes – Regular Meeting – July 18, 2019**

**Tony Aukstikalnis** made a motion to approve the minutes of the regular meeting on July 18, 2019, seconded by **Chairman Romano**. The following vote was recorded: **Mark Simmons, John Tilton, Chairman Romano, Terry Kulinski, Daina Dale, Mayor Oldham, Tony Aukstikalnis** all voted **Yes** to approve.

~ ~ ~ ~ ~

**Master Plan** discussion was pushed to the next meeting.

~ ~ ~ ~ ~

At 9:11 PM the meeting was adjourned.

~ ~ ~ ~ ~

Respectfully submitted,

Christine Lisiewski, Secretary