

**BOROUGH OF HARVEY CEDARS  
LAND USE BOARD**

**Regular Meeting – Minutes  
October 19, 2017**

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 Boulevard, Harvey Cedars, New Jersey on the above date.

The meeting was called to order at 7:02 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."

Member of the Board present: **Mayor Oldham, Daina Dale, Chairman Romano, Mark Simmons, John Tilton, Paul Rice** and **Tony Aukstikalnis**

Members of the Board absent: and **Commissioner Garofalo**, and **Terry Kulinski**

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

Alternate members of the Board absent: **Kathy Sheplin**

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**Application – 2017-08 Murphy, 5B West Burlington Avenue, Harvey Cedars, New Jersey, Block 12, Lot 2**

James Raban, Attorney for the Applicant, introduced himself. Mr. Snyder entered the following into evidence: A1, Application dated September 28, 2017, A2, Variance Plan drawn by Horn, Tyson, Yoder with a date of May 16, 2017 and a revision date of September 27, 2017, A3, Architectural Plans drawn by CWB Architecture and B1, Board's Engineer Letter written by Frank Little dated October 16, 2017. Frank Little was sworn in.

Mr. Raban introduced the Application and explained that the resident did not know they had an issue with the lot coverage and Floor Area Ratio until their project was in for permits. It was then that they learned that the 7.5' easement on their property could not be used as part of the calculation of the square footage of their house. A 13' easement is shared by the Murphy's and their neighbor to the north to allow access to Lot 10. The 7.5' easement is 12% of the property. Without the extra 675 square feet in their calculation puts the Murphy's house over on lot coverage and F.A.R.

Mr. Jim Brzozowski, of Horn, Tyson and Yoder, was sworn. Mr. Brzozowski explained that the previous house was a raised one story ranch with decks and took up 43% of the lot area. The new house will be a two story single family residence and will only take up 37% of the coverage where 33% is allowed. The F.A.R. exceeds the maximum by 6.5% without

Decks or Porches. Everything would conform if he would be allowed to include the Easement numbers (675 square feet) in his calculations. Mr. Raban asked about the effect of the new residence on the surrounding neighborhood. Mr. Brzozowski explained that the north sides of West Burlington were all single family residences and the south side was Sunset Park. He also mentioned that light and air would not be diminished but improved because the new house would be smaller in dimension and meets all set back and height requirements. The easement would be maintained by a gravel driveway.

The Board asked questions of Mr. Brzozowski as follows:

- Height of the houses that surround the property in question. Mr. Brzozowski answered by saying that all the houses surround the Murphy property are all around the 30 foot height.
- Easement access was asked to be explained in more detail. Mr. Brzozowski explained that the easement is unique to most easements in Harvey Cedars because this easement only serves one lot, Lot 10.
- Deck reduction was suggested to bring the residence into compliance. Mr. Brzozowski explained there where less Deck space on the proposed residence than on the existing.

Craig Brearley, of CWB Architecture was sworn in. Mr. Brearley explained the proposed residence. He state that the side yard setbacks and height conform to Borough ordinances and there is not an issue with light and air.

The Board's concerns for Mr. Brearley were:

- Roof top deck conforming to the height restrictions which the Zoning Officer answered yes.

Sean and Laura Murphy, Home Owners were sworn in. Mrs. Murphy explained the reason for the new residence was due to an illness she is recovering from so they decided to sell their win ter residence and move down to Harvey Cedars full time. They have never rented the property but raised their children here every summer.

The Board's concerned for the Murphy's were:

- Why was this project coming before the Board now, after the house had been knocked down? Mrs. Murphy explained that they never knew that the house needed a variance until the construction documents were denied for a building permit. She also said that if they were aware of the easement not being able to be calculated into the building coverage they would have designed their house differently.
- Could decks be cutback? Mrs. Murphy explained that the decks square footage is actually less than the original residence.



Mr. Little stated that the new house fits within the neighborhood. He also suggested that the Board consider the lot loses 7.5 feet of usable calculation due to the easement. The easement cannot be filled because of the Borough's Ordinance which mandates that all lots be filled to prevent flooding but must be maintained at its current level to allow access to Lot 10.

The Board opened the floor to the Public.

- Mr. Roy Zaloom, owner of Lot 10, was sworn in. Mr. Zaloom's concerned was the retaining wall put in place to hold back the fill of the lot. The retaining wall hampered his access and parking because the wall was square. Mr. Zaloom asked the Board to consider requesting that the wall be rounded in order to allow vehicles to back out of his driveway without running over his planted areas. Chairman Romano stated that this was out of the Boards jurisdiction and needed to be resolved between the neighbors.

Mr. Raban produced two sheets of Photos with four photos on each page. They were entered in to evidence as A4 which represented what the easement looked like before the construction and A5 which represented what the easement looks like after the retaining wall was built.

The Public Portion was closed.

Board Discussions were followed by Mr. Raban's closing comments.

- Due to no light and air issues and that this lot is unique and offers a better usage of the lot than 95% of the lots in Harvey Cedars, this application should be approved.
- Ordinance of lot coverage and Floor Area Ratio should be followed but this lot was better than most in town.

A motion to approve the application as presented was made by **Tony Aukstikalnis**, seconded by **John Tilton**. The following vote was recorded **Mark Simmons, John Tilton, Paul Rice, Chairman Romano, Tony Aukstikalnis, Daina Dale and Sandy Marti** all said **Yes**.

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### **Application, 2017-07 Holl, 9 East Atlantic Avenue, Block 37 Lot 5**

This application was carried to the November meeting. Applicant will have to submit plans by November 1<sup>st</sup> and have to notify the 200 foot list property owners and newspapers accordance with Land Use Law. A motion to carry this application to November was made by **Tony Aukstikalnis** and seconded by **John Tilton**. The following Roll Call vote was

recorded: **Mark Simmons, John Tilton, Tony Aukstikalnis, Daina Dale, and Chairman Romano**, and all voted **Yes**.

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**Minutes – September 21, 2017**

**Tony Aukstikalnis** recommended that the minutes be changed to add the line “Mr. Snyder suggested that the applicant talk to the neighbor, Dr. Lott, to address Dr. Lott’s concerns.” **Mark Simmons** made a motion to approve the minutes of September 21, 2017 with modifications, seconded by **Tony Aukstikalnis**. The following vote was recorded **Mark Simmons, John Tilton, Chairman Romano, Tony Aukstikalnis** and **Daina Dale** all voted **Yes** to approve.

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**Ordinance 2017-27**

Daina Dale explained Ordinance 2017-27 which was introduced by the Board of Commissioners at their regular meeting on October 6, 2017. The ordinance pertains to the impervious coverage allowed by oceanfront properties.

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The Master Plan discussion was carried.

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At 8:17 PM a motion to adjourn was made by **Mark Simmons**. Seconded by **Chairman Romano**, all voted in favor to adjourn the meeting.

Respectively submitted,



Mary Pat Brearley, Secretary