

**BOROUGH OF HARVEY CEDARS
LAND USE BOARD**

**Regular Meeting – Minutes
May 21, 2020**

A regular meeting of the Land Use Board of the Borough of Harvey Cedars was held via Zoom 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 07:02 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.”

Members of the Board present: **Chairman Romano, John Tilton, Daina Dale, Terry Kulinski, Tony Aukstikalnis, Mayor Jonathan Oldham, and Commissioner John Imperiale**

Members of the Board absent: **Mark Simmons**

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

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

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

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Before beginning applications, **Stuart Snyder, Esq.**, explained that he had a conflict with three of the applications on the meetings agenda and **Kevin Quinlan, Esq.** would be stepping in for applications, **2020:04, 2020:05, and 2020:06.**

During review of the public notices submitted by the counsel for **2020:05, 2020:06, and 2020:07, Mr. Quinlan** discovered that the notices were not adequate. The notices did not properly detail where the public could view application documents prior to the meeting. Due to the deficiency of the notices, the applications were unable to be heard.

Mr. Stuart Snyder explained that new notices will be mailed to all individuals within 200ft of those properties and a new notice will be published with the appropriate language. Due to the applications being pushed, a Resolution will be provided for each application during the June 18th meeting.

Chairman Bob Romano opened the meeting to the counsel for the three applications. **Richard Visotcky** appeared before the board for all three applications. **Mr. Visotcky** explained that the Borough of Harvey Cedars website was listed on the public notices and he believed he was following the correct procedure.

Kevin Quinlan acknowledged that counsel for an objector of **2020:06 16 E. 84th Street** was also

present. **Jonathan Sontz** is representing objector **Anthony Ellenbogen**. **Mr. Sontz** filed a submission brief and objection letter in regards to application **2020:06**. He is requesting that the documents be placed on record prior to the June meeting for the boards review. **Richard Visotcky** objected the request due to the board having no jurisdiction to hear the application at this time. **Kevin Quinlan** explained that the documents need to be submitted at the time of the hearing.

A motion was made by **Commissioner Imperiale** to carry the applications for **2020:05**, **2020:06**, and **2020:07**, seconded by **Kathy Sheplin**. The following vote was recorded **John Tilton, Daina Dale, Chairman Romano, Terry Kulinski, Tony Aukstikalnis, Mayor Oldham, and Kathy Sheplin** all voted **Yes** to carry the applications to the June 18th regular meeting of the Harvey Cedars Land Use Board.

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**Application – 2020:03 – 6305 E Long Beach Blvd. – Edward & Kathryn Marceski**

**James Raban** with **Raban & Raban LLC** was sworn in on the behalf of applicants, **Edward and Kathryn Marceski**.

**The following was entered into evidence:**

- A1 – Application**
- A2 - Horn, Tyson, & Yoder Variance Map**
- A3 – Architectural Drawings – Prepared by Scott Lepley**
- B1 – Engineer Review Letter**

**James Raban** explained that there is currently an existing single-family dwelling located on the property. The lot is 52.5ft by 100ft but 25ft of the lot is encumbered by a private easement. The remaining square footage is under 4000 square feet, creating an undersized lot. **Mr. Raban** explained that the applicants are proposing an elevator shaft, rooftop deck, and relocation of the main entrance due to the proposed elevator shaft. Exterior renovations are also being proposed to improve the overall aesthetic of the home.

**Mr. James Brzozowski** with **Horn, Tyson, and Yoder** was sworn in. **Mr. Brzozowski** explained that there are currently four non-conformities present on the property including setbacks and lot coverage. The applicant is proposing to install an elevator which would be placed in the footprint of an existing deck and entrance. He explained that the relocation of the main entryway would increase the lot coverage by 58 square feet. With the proposed increase, the property would increase from 35.5% lot coverage to 37% lot coverage. **Mr. Brzozowski** also explained that the bottom step of the proposed stairway would be 8.2ft from the east property line.

**James Raban** requested **James Brzozowski**'s comments on the Engineer Review Letter prepared by **Frank Little**. **Mr. Brzozowski** explained that the letter suggests the maximum height of the flat roof should be no more than 26feet and the railings should not exceed 29feet.

He continued to explain that the elevation of the proposed roof deck does not allow for much leeway.

**Stuart Snyder** requested clarification on the proposed roof deck heights. **James Brzozowski** shared that the proposed height is 18.7ft above the existing first floor with the height of the adding an additional 3ft. He added that the height of the railing is proposed at 30.9ft. **Mr. Snyder** asked for further information on what is required at the property. **Mr. Brzozowski** stated that his interpretation was that 31ft was required, while the Engineer Review Letter states 29ft. **Frank Little** added that in his analysis of the ordinance the flat roof cannot exceed 26ft and the railing cannot exceed 29ft. He shared that he interpreted this ordinance with the zoning officer, **Anna Grimste**, and he feels comfortable with his analysis and there are height variances that are relative to both the flat roof and railing heights.

**James Raban** had some additional questions regarding the side yard setbacks of the property. **James Brzozowski** explained that both setbacks are non-conforming. He added that with the proposed elevator, there will be about 35ft between the neighboring property. **Mr. Brzozowski** believes that there is a hardship due to lot coverage and there will be no detrimental impact on any neighboring properties.

**John Tilton** inquired about the railing type that is currently being proposed. **Mr. Brzozowski** added that to his understanding, the railing will be open.

**Commissioner John Imperiale** added that he thinks the property will be a major improvement for the area and does not see there being an issue with neighboring properties.

**Scott Lepley** was sworn in. **Mr. Lepley** explained that the applicants are proposing a major overhaul on the outside appearance of the house. **Stuart Snyder** questioned if square footage would be added from the proposed renovations. **Mr. Lepley** confirmed that there will be no square footage from renovations. He added that the elevator that is being proposed is the smallest acceptable.

Applicants **Edward** and **Kathryn Marceski** were sworn in. The applicants confirmed that they were the current applicants of the property and have owned the property for a year. **Mr. Raban** asked the applicants to explain the reason for the changes. **Mr. Marceski** stated that the house was run-down and they wanted to bring it to the standard of the neighborhood. They would be using it for their family and not as a rental property.

**Kathy Sheplin** requested details on how the rooftop deck is going to be created from the existing structure. The rooftop deck will be created by cutting into the incline of the master bedroom leaving a ceiling height of 7 or 8 feet.

**John Tilton** added that the design is appropriate for the home and he does not believe there is any issue with the proposed.

Public portion was opened.

**Frank Hughes**, is very pleased with the proposed improvement.

A motion was made by **Tony Aukstikalnis** to close the public portion, seconded by **John Tilton**. The board voted all in favor to close the public portion.

Public portion was closed.

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

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2020:04 – 7801 Long Beach Boulevard – Amy Haerberlein / Birdy’s

Due to conflict, **Stuart Snyder** excused himself. **Kevin Quinlan Esq.**, represented the board for application 2020:04.

The following was entered into evidence:

- A1 – Application**
- A2 – 11x17 hand drawn sketch of existing restaurant**
- A3 – 11x17 hand drawn sketch of proposed**
- B1 – Engineer Review Letter**

Applicant **Amy Haerberlein** was sworn in. The applicant confirmed that she is the current tenant of the property and has the owner’s permission to appear before the board. **Ms. Haerberlein** explained her history as a business owner on Long Beach Island with Artifacts and Coffee Nest in Beach Haven. She explains that she is an artist and is very passionate to bring art and flowers to Harvey Cedars.

The applicant is proposing the conversion of 308 square feet of the restaurant café to a retail area with common ownership. There are no changes being made to the structure.

Amy Haerberlein confirmed that she had time to review the Engineer Review Letter prepared by **Frank Little**. **Mr. Quinlan** explained that there is an issue with the amount of parking spaces for the business. Twenty-nine parking spaces will be needed and there are twenty-one spaces provided. With the applicant currently operating the café, **Kevin Quinlan** requested insight from the applicant on any parking issues that may arise. **Ms. Haerberlein** explained that the restaurant is grab and go. She added that they employ two baristas and she will be managing the retail and plants. The applicant currently resides above the café.

Frank Little began discussion on prior approval, Resolution 2015:04, that outlines the number of seats that could be provided. **Chairman Romano** requested that **Frank Little** and **Kevin Quinlan** explain what is outlined in the original approval for the prior restaurant, Black-Eyed

Susan's. The original applicants were requesting a variance for 75 seats. One of the conditions of the approval, was that Black-Eyed Susan's would need to be reservations only and additional parking could be utilized at Sunset Park. **Mr. Little** explained that if no reservations are going to be needed and no additional parking is going to be provided in Sunset Park, then seventy-five seats is not an option for Birdy's. Resolution 2015:04 continued to explain that if reservations were not available, the number of seats would drop to sixty-six and even lower to forty-eight. **Frank Little** stated that with 308 square feet removed from the restaurant area for retail, seating will need to be lowered to accommodate the smaller space. The applicant stated that she would like to have forty-eight seats. **Frank Little** added that he believes that number is fine because that is the lowest amount provided in the prior approval. That would allow for reservations to not be required and no off-site parking in Sunset Park.

Tony Aukstikalnis suggests that the Resolution is somewhat poorly written. Off-site parking was also to be utilized at Giglio Awning and the Red Chair. **Mr. Aukstikalnis** and **Frank Little** discussed the breakdown of parking spaces. There would be sixteen spaces for the café, three employee spaces, and two retail bringing the number to twenty-one. **Kevin Quinlan** added that the apartment spaces do need to be included for future instances. **Frank Little** stated that an approval for forty-eight seats could be granted but a variance would be needed for two parking spaces. **Mr. Aukstikalnis** suggested forty-five seats.

Commissioner Imperiale added that he has been through Birdy's numerous times and praised the applicant for the great work she put into the business. With the café being grab and go, **Commissioner Imperiale** does not see how forty-eight seats would ever be utilized. He does not believe seating would be an issue.

Terry Kulinski mentioned that in the summer season, many individuals are walking or riding bikes. She added it was important in previous years to require businesses in Harvey Cedars to include bike racks and that this should be kept in mind for this application. The applicant agreed and shared that a bike rack is currently being constructed.

Mayor Jonathan Oldham asked for an overview of hours and operation of Birdy's. **Amy Haerberlein** shared that the store will be open from 7:00AM-7:00PM. Birdy's plans to offer breakfast, brunch, potted plants, fresh cut flowers, linen, clothing, fine artwork, and offer a space to feature local artists. **Daina Dale** requested a description of where the retail space will be. The applicant stated that the front porch area and outside will have retail and plants.

John Tilton questioned how the board would possibly handle any future businesses that operate out of the café's location. **Frank Little** stated that if the business wished to update the parking, they would need to come back before the board for approval.

Jonathan Oldham added that it is important not to put limits on the property that would make it not viable for future properties. **Tony Aukstikalnis** suggested the board of commissioners may need to look over the borough ordinances regarding seating.

Tony Aukstikalnis made a motion to open the public portion, seconded by **Commissioner Imperiale**. The board voted all in favor to open public portion.

Public portion was opened.

Jo Surpin, the property owner, was sworn in. **Ms. Surpin** explained that she bought the property in 1994 and operated the location as a retail space and market. She added that Birdy's is bringing back the original use of the property. **Ms. Surpin** explained that parking did not become an issue until the property was a restaurant only. She believes that the style of Birdy's would do away with any issue.

James Loudon, 8 E. 83rd Street, was sworn in. **Mr. Loudon** shared his pleasant experience of Birdy's and wished the applicant success.

Chris Johnson, 16 E. 83rd Street, was sworn in. **Mr. Johnson** stated that Birdy's is one of the best things to happen to Harvey Cedars. He thanked the applicant for bringing a refreshing new business to the north end of the island.

Richard Hathaway, 15 W. 80th, was sworn in. **Mr. Hathaway** shared his concerns over employee parking. He explained that lately it has been a problem with people being parking wherever they can. **Mr. Hathaway** does not feel three employee spots are enough.

Commissioner Imperiale made a motion to open the public portion, seconded by **Tony Aukstikalnis**. The board voted all in favor to open public portion.

Chairman Bob Romano started board discussion. He shared concerns over employee parking. Three employees do not sound viable for the restaurant. **Chairman Romano** also shared concerns over regular parking due to the property being a high use. He suggested possibly marking short time use parking. **Jo Surpin** added that the movement of Birdy's will be quick and flowing. With the style of restaurant, there would be no deli lines or long queues. **Ms. Surpin** does not believe the proposed style would cause the parking lot to be congested. **Chairman Romano** questioned the requested 48 seats and if servers would be employed. The applicant shared that grab and go would remove the need for a server.

Terry Kulinski shared that she believes Birdy's is a great new and unique place for Harvey Cedars.

Mayor Jonathan Oldham mentioned the stoop on the boulevard side of the property. He questioned whether or not the exit needed to be placed in that location. **Jo Surpin** stated that it was an emergency exit originally. **Ms. Surpin** added that with COVID-19, they are planning on having the entrance to the building from the parking lot and the exit on the boulevard side. The separate entrance and exit would allow for proper social distancing.

Daina Dale mirrored concerns on parking. She added that the website is currently advertising a sit-down experience. **Amy Haerberlein** stated that website is advertising a brunch atmosphere.

Chairman Romano asked the applicant to considered the short-term parking signs. The applicant agreed to look into the possibility of the signs.

Prior to the vote, **Daina Dale** requested the board to revisit the outdoor retail. The applicant shared that outdoor retail will be plants and other gardening items. **Chairman Romano** added that there should be no issue if it does not encroach the parking spaces.

Commissioner Imperiale made a motion to approve a waiver of site plan review; grant a variance for two parking spaces; limit outdoor retail to plants, flowers, and garden containers; and that the applicant will install a bike rack on site, seconded by **Terry Kulinski**. The following vote was recorded **John Tilton, Daina Dale, Chairman Romano, Terry Kulinski, Mayor Oldham, Tony Aukstikalnis, and Kathy Sheplin** all voted **Yes** to approve.

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Resolution – 2020:04 – 7801 Long Beach Boulevard – Amy Haeberlein / Birdy’s

Kevin Quinlan review the Resolution of Memorialization with the board.

Chairman Romano requested board input. The board found no issue.

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

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Minutes – Special Meeting – 04/02/2020

Terry Kulinski made a motion to approve the minutes of the regular meeting on February 20, 2020, seconded by **Tony Aukstikalnis**. The following vote was recorded **John Tilton, Daina Dale, Chairman Romano, Terry Kulinski, Mayor Oldham, and Kathy Sheplin** all voted **Yes** to approve.

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At 8:57 PM the meeting was adjourned.

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Respectfully submitted,

Christine Lisiewski, Secretary

