

**RESOLUTION OF MEMORIALIZATION OF THE  
LAND USE BOARD THE BOROUGH OF HARVEY CEDARS  
COUNTY OF OCEAN AND STATE OF NEW JERSEY  
DOCKET NO. 2016:08V**

**WHEREAS**, William Clarke and Wendy Clarke have made an application to the Land Use Board of the Borough of Harvey Cedars for variances to construct a second floor addition in conjunction with the raising of the existing single family house at premises known and designated as Lot 1 Block 74 located at 7 West 83<sup>rd</sup> Street, in the Borough of Harvey Cedars, County of Ocean and State of New Jersey; and

**WHEREAS**, the application was considered by the Land Use Board at a public hearing conducted on December 15, 2016. The applicant was represented by Marc A. Spielberg, Esq. The application dated November 23, 2016 was entered into evidence as Exhibit A-1; the plan prepared by Horn, Tyson & Yoder, Inc. titled "Variance Map Lot 1, Block 74 Tax Map Sheet # 8 Borough of Harvey Cedars, Ocean County New Jersey" dated February 22, 2012 with a final revision date of September 28, 2016 was entered into evidence as Exhibit A-2; architectural plans titled "Proposed Addition & Alterations to an existing residence at Lot 1 Block 74 7 West 83<sup>rd</sup> Street Borough of Harvey Cedars, County of Ocean State of New Jersey for Wendy W Clarke, Owner" dated August 9, 2016 prepared by Douglas Barber Architect under Signature and Seal of Douglas J. Barber, RA, containing Sheet A-2 Foundation Plan and Floor Plans and Sheet A-3 Elevations was entered into evidence as Exhibit A-3. The review letter from Owen, Little & Associates, Inc., under signature of Frank J. Little, Jr., dated December 7, 2016 was entered into evidence as Exhibit B-1. Testimony was offered by Douglas J. Barber, applicant's architect, James Brzozowski, PE, PP applicants engineer and professional planner and by William Clarke and Wendy Clarke the applicants. Public comment was offered by Winnie Coco 5 West 83<sup>rd</sup> Street; Frank O'Hara 8305 North Anchor Street; Holly Faus 11 West 83<sup>rd</sup> Street; Robert Weisel 14 West 84<sup>th</sup> Street; and Sandy Freeman 4 West 84<sup>th</sup> Street; and

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

1. All jurisdictional requirements have been met.
2. Applicants are the owners of the property. The property is located in the RA Single Family Residential Zone. The dimensions are 25 feet x 200 feet whereupon the lot fronts 25 feet on West 83<sup>rd</sup> Street; 200 feet on Anchor Avenue and 25 feet on West 84<sup>th</sup> Street.
3. The property is improved with a one story single family dwelling, fronting on West 83<sup>rd</sup> Street with a setback of 5.3 feet to the existing open porch. There is a brick patio at the rear and a detached garage separated from the house by 32.3 feet. The remaining of the property is vegetated and currently is used by the property owner for the storage of small boats and trailers.
4. The existing front yard setback from West 83<sup>rd</sup> Street is 10.8 feet to the building; the existing front yard setback to Anchor Street is 2.9 feet.
5. The sideyard setback to Lot 2 adjoining the property on West 83<sup>rd</sup> Street is 4.1 feet. The detached garage maintains a nonconforming 3 foot setback from Anchor Street and a 0.3 foot setback to adjoining Lot 2; and almost abuts the shed at Lot 2.
6. Applicants propose to raise the house in place and construct a second floor addition thereto.
7. The existing house has two (2) bedrooms, one bathroom, a kitchen, living area and small den; there are not any modifications proposed to the first floor. The proposed second floor additional will provide an additional bedroom bathroom, closet and storage space; and a utility area for a washer and dryer. The roof line will be raised to accommodate the living area. The proposed height of the building is 26 feet.
8. The neighbors who appeared voiced concerns regarding the parking at the site; as the northerly portion of the subject lot is vegetated and used for storage of boats and trailers; and not for off street parking.

9. The elevation of the house is proposed at 26 feet to enable the building to conform to BFE plus one (1) foot. Applicants propose to install pilings to accommodate the new foundation and rising of the house. According to applicant's engineer the actual building height may exceed 26 feet due to the requirement to fill the lot; notwithstanding the building height shall not exceed 26.4 feet. The Board finds that the elevation of the lot to eight (8") inches above the road in lieu of the required twenty (20") inches at this location is acceptable.
10. As the house is being raised the Board finds that the building may be relocated to the north to accommodate a conforming twenty (20') foot front yard setback from West 83<sup>rd</sup> Street. By moving the house as aforementioned the site triangle will be improved; parking will be available at the front of the house, and a nonconforming condition will be eliminated.
11. Applicant has agreed to move the house to create a twenty (20') foot setback to the building from West 83<sup>rd</sup> Street and designate two (2) onsite parking spaces on the plan; and

**WHEREAS**, the Land Use Board of the Borough of Harvey Cedars has determined that the relief requested by the applicants William Clarke and Wendy Clarke for variances to permit the raising of the existing single family home to one (1') foot above required BFE and for the construction of a second floor addition, increasing the building height not to exceed 26.4 feet at property known and designated as Lot 1 Block 74 located at 7 West 83<sup>rd</sup> Street, in the Borough of Harvey Cedars, County of Ocean and State of New Jersey 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 subject to applicants limiting the raising of the lot to eight (8") inches above grade in lieu of the required twenty (20") inches; and applicant relocating the house northerly to create a twenty (20') foot front yard setback from the building to West 83<sup>rd</sup> Street, and designating two (2) parking spaces on the property, as the house and addition are modest; the nonconforming front yard setback to West 83<sup>rd</sup> Street will be eliminated; the site triangle will be improved; and elevating the house to

meet current FEMA and flood elevation requirements will benefit the borough and neighborhood; creating a safer site.

**NOW THEREFORE BE IT RESOLVED** by the Land Use Board that the application of applicants William Clarke and Wendy Clarke for variances to permit the raising of the existing single family home to one (1') foot above required BFE and for the construction of a second floor addition, increasing the building height not to exceed 26.4 feet at property known and designated as Lot 1 Block 74 located at 7 West 83rd Street, in the Borough of Harvey Cedars, County of Ocean and State of New Jersey, be and hereby is conditionally approved.

**BE IT FURTHER RESOLVED** that applicant is granted variances for preexisting conditions, but for the front yard setback from West 83<sup>rd</sup> Street which nonconformity is being eliminated; applicants are granted a height variance to permit a building height of up to 26.4 feet; and applicants are granted a variance to permit the lot to be raised eight (8") inches in lieu of the twenty (20") inches required by Ordinance.

**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., and C.M.E., dated December 7, 2016, as entered into evidence as Exhibit B-1.

**BE IT FURTHER RESOLVED** that this approval is subject to and conditioned upon applicant submitting revised plans designating two (2) parking spaces; and relocating the house to the north to maintain a conforming twenty (20') foot setback to West 83<sup>rd</sup> Street.

**BE IT FURTHER RESOLVED** that this approval is subject to and conditioned upon all construction at the property conforming to all building, 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.

**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.

**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 and representation as set forth herein and as placed on the record at the public hearing conducted on December 15, 2016 when this matter was considered.

  
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**MARY PAT BREARLEY, SECRETARY**

**-CERTIFICATION-**

**I, MARY PAT BREARLEY** Secretary of the Land Use 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 Board of the Borough of Harvey Cedars at a public meeting held on January 19, 2017.

  
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**MARY PAT BREARLEY, SECRETARY**