

**RESOLUTION OF MEMORIALIZATION OF THE
LAND USE BOARD THE BOROUGH OF HARVEY CEDARS
COUNTY OF OCEAN AND STATE OF NEW JERSEY
DOCKET NO. 2017:06V**

WHEREAS, Warren Petrucci and Jill Petrucci has made an application to the Land Use Board of the Borough of Harvey Cedars for variances to permit the construction of an addition to the existing third floor of the single family home at a building height of 33.5 feet at premises known and designated as Lot 10 Block 62 located at 8206 Bay Terrace, 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 July 20, 2017. The applicant was represented by James S. Raban, Esq.; with Robert J. Kiss, Esq. appearing. The application dated June 29, 2016, was entered into evidence as Exhibit A-1; the plan prepared by Nelke Constantine & Assoc., Inc. titled “ Plan of Survey Lot 10 Block 62 Tax Map Sheet #7 New Jersey State Plane Coordinate System Harvey Cedars Borough Ocean County New Jersey” dated April 29, 2015 under signature and seal of Jay F. Pierson, Professional Land Surveyor signed on June 10, 2015, was entered into evidence as Exhibit A-2; the plan prepared by Nelke Constantine & Assoc., Inc. titled “ Variance Plan Lot 10 Block 62 Tax Map Sheet #7 Harvey Cedars Borough Ocean County New Jersey” dated June 13, 2017, with a revision date of June 29, 2017 under signature and seal of Jeff Daum signed on June 29, 2017, was entered into evidence as Exhibit A-3; architectural plans prepared by Craig W. Brearley, AIA, Architect, titled “Petrucci Residence Lot 10 Block 62, Harvey Cedars, Ocean County” consisting of two sheets, BD-1 Floor Plans, BD-2 Floor Plans and BD-3 Elevations dated June 27, 2017 under signature and seal of Craig W. Brearley, A.I.A. was entered into evidence as Exhibit A-4; a photograph of the front of the house was entered into evidence as Exhibit A-5; a photograph of the rear of the house was entered into evidence as Exhibit A-6; and a series of five (5) photographs titled Photo Exhibit for Variance Application prepared by Jeff Daum, NJPE was entered into evidence as Exhibit A-7. The review letter from Owen, Little & Associates, Inc., under signature of Frank J. Little, Jr., dated July 17, 2017 was entered into evidence as Exhibit B-1. Testimony was offered by Warren Petrucci and Jill Petrucci, the applicants; by Jeff Daum applicant’s Professional Engineer and Professional Planner and by Craig W. Brearley applicants’ architect. There was not any public comment offered; 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 of the property are 50.03' x 225.03' feet irregular. The property is abuts the Barnegat Bay and the upland area is 5,831 square feet.
3. The property is improved with a three story single family home, having been raised and thereafter renovated as authorized by Resolution of Memorialization 2016-02 adopted by this Board on May 19, 2016. The existing side yard setback of 3.9 feet where 10 feet is required and the combined side yard setback of 8.9 feet where 20 feet is required were approved under the above referenced Resolution of Memorialization.
4. Applicants are requesting variance relief to construct a 527.6 square foot addition to the third story to accommodate two new bedrooms and a landing area to accommodate a new stairway from the second story, enabling them to eliminate the existing spiral staircase. In conjunction with the project they are requesting relief to rebuild the exterior stair, making it wider, without encroaching into the setback. The plans submitted additional interior renovations.
5. The renovation would reconfigure the interior living space; and provide applicants with six (6) bedrooms where five (5) currently exist.
6. The third story at the subject property is a preexisting non conformity; Section 13-7.2 of the Borough Ordinances prohibits more and two stories of habitable area. Applicants are seeking a variance to permit the expansion of the third floor.
7. The plans reflected that the addition would be accomplished by enclosing certain roof and roof deck areas.
8. The building height of 33.5 feet resulted from applicants raising their home, in accordance with state statutes and FEMA guidelines.
9. The increase of habitable area at the third story concerns the board; although the Board is cognizant that a conventional stairway from the second to the third floor is a safer means of access and egress; and

WHEREAS, applicants requested the matter be carried until the August 17, 2017 meeting, to enable them to revisit their plans, in an attempt to satisfy the concerns raised at the meeting. Applicant waived all time constraints and the Board adjourned the hearing until August 17, 2017, without any further notice requirements; and

WHEREAS, the matter was again considered at a public hearing on August 17, 2017. The applicant was represented by James S. Raban, Esq., who appeared on applicant's behalf. The plan prepared by Nelke Constantine & Assoc., Inc. titled "Variance Plan Lot 10 Block 62 Tax Map Sheet #7 Harvey Cedars Borough Ocean County New Jersey" dated June 13, 2017, with a final revision date of August 7, 2017 under signature and seal of Jeff Daum signed on August 7, 2017, was entered into evidence as

Exhibit A-1 under date of August 17, 2017; architectural plans prepared by Craig W. Brearley, AIA, Architect, titled “Petrucci Residence Lot 10 Block 62, Harvey Cedars, Ocean County” consisting of two sheets, BD-1 Floor Plans, BD-2 Floor Plans and BD-3 Elevations dated June 27, 2017 with a revision date of July 28, 2017 under signature and seal of Craig W. Brearley, A.I.A. was entered into evidence as Exhibit A-2 under date of August 17, 2017. The review letter from Owen, Little & Associates, Inc., under signature of Frank J. Little, Jr., Second Review dated August 14, 2017 was entered into evidence as Exhibit B-2. Testimony was offered by Craig W. Brearley applicants’ architect. There was not any public comment offered; and

10. Applicant amended their plans to reduce the proposed third floor addition to 210 square feet.
11. The revised plans reflect an expanded foyer on the first floor; the kitchen would be modified with a bedroom being replaced with a dining room; an area would be created to accommodate a direct stairway from the second floor to the third floor; with the spiral staircase being eliminated; the third floor would retain the existing bedroom and bathroom; an additional bedroom and bathroom would be added together with an appropriate landing area to accommodate the conforming stairs from the second to the third floor.
12. According to the architect the a portion of the roof overhang and 144 square feet of new roof will be used to enclose the addition. The proposed addition to the third floor at the front of the house was eliminated from the revised plan.
13. The Board finds that the addition as proposed will increase the area on the third story is contrary to the zoning ordinances; the addition of an area limited to accommodate the conforming staircase from the second to the first floor, would be minimal in nature and promote a safer habitable area for applicant. Applicant has not demonstrated any criteria to support an increase in living and habitable area at the nonconforming third story.
14. Applicants modified their variance request, eliminating any expansion to the third story but for a 66 square foot addition to be constructed under the existing roof overhang, to accommodate the area required to install a conforming stairway. An addition of 2.1 feet +/- x 30 feet is being requested. The existing improvements at the third story may remain; with any interior modifications at the option of applicants. But for the aforementioned enclosure, all decks shall remain open.
15. Applicants will provide revised plans limited to the amended relief requested; and

WHEREAS, the Land Use Board of the Borough of Harvey Cedars has determined that the relief requested by the applicants Warren Petrucci and Jill Petrucci for variances, as revised at the hearing on August 17, 2017 to permit the construction of

a 2.1 +/- x 30 foot addition to the existing third story for purposes to accommodate a conforming staircase, to replace spiral staircase from the second to the third story, at the existing single family home and premises known and designated as Lot 10 Block 62 located at 8206 Bay Terrace, 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, as the enclosure will provide applicant with a safer means of access and egress within the house; and the addition will be constructed under existing roof overhangs, and be minimal in nature as to its impact on any surrounding properties or the Borough. All existing decks, except as set forth herein will remain open.

NOW THEREFORE BE IT RESOLVED by the Land Use Board that the application of Warren Petrucci and Jill Petrucci for variances, as revised at the hearing on August 17, 2017 to permit the construction of a 2.1 +/- x 30 foot addition to the existing third story for purposes to accommodate a conforming staircase, to replace spiral staircase from the second to the third story, with all decks to remain open, at the existing single family home and premises known and designated as Lot 10 Block 62 located at 8206 Bay Terrace, 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 this approval is subject to and contingent upon applicant submitting revised plans consistent with the amendment to their application as set forth herein, said plans shall be approved by the Board engineer prior to any permits issuing or the commencement of construction. Approval is granted only for the 2.1 x 30 foot addition to the third floor, constructed under an existing roof overhang for purposes of accommodating a conforming stairway to replace the spiral staircase between the second and third story; all remaining exterior decks shall remain open and not be enclosed.

BE IT FURTHER RESOLVED that the conditions and approvals granted under Resolution of Memorialization Docket 2016:02 adopted by this Board on June 16, 2016 shall remain in full force and effect, except only as modified herein.

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 August 14, 2017, as entered into evidence as Exhibit B-2.

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 July 20, 2017 and August 17, 2017 when this matter was considered.

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 September 21, 2017.

MARY PAT BREARLEY, SECRETARY