

**RESOLUTION OF MEMORIALIZATION OF THE LAND USE BOARD OF THE
BOROUGH OF HARVEY CEDARS COUNTY OF OCEAN AND STATE OF
NEW JERSEY
DOCKET NO. 2017-07**

WHEREAS, Joseph Holl has made application to the Land Use Board of the Borough of Harvey Cedars for variances to permit the installation of an in ground swimming pool with five (5') foot side and rear yard setbacks; locate an air conditioning platform and pool equipment platform at a 7.5' foot setback; maintain a five (5') foot distance to the roof overhang and to maintain building coverage of 48.6% at property known and designated as Lot 5 Block 37; 6405 A Long Beach Boulevard in the Borough of Harvey Cedars, County of Ocean and State of New Jersey; and

WHEREAS, the Land Use Board considered this application at a public hearing on September 21, 2017. The applicant appeared pro se. The application dated August 30, 2017 was entered into evidence as Exhibit A-1; the variance plan prepared by Nelke/Tyszka Land Surveyors LLC titled "Variance Plan T.M. Lot 5 – Block 37 Tax Map sheet #4 Borough of Harvey Cedars, Ocean County, New Jersey" dated August 30, 2017, under signature and seal of Leon J Tyszka, P.L.S.. was entered into evidence as Exhibit A-2; eight (8) computer generated images of the swimming pool, overhang and pool equipment and air-conditioning platforms were entered into evidence as Exhibit A-3. . The review letter from Owen, Little & Associates, Inc., under signature of Frank J. Little, Jr. P.E., P.P., and C.M.E., dated September 18, 2017 was entered into evidence as Exhibit B-1. Testimony was offered by David Ash, applicant's contractor; Leon J. Tyszka, applicants surveyor; and Joseph Holl, applicant. There was public comment offered by Charles Lott, the adjoining property owner; and

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

1. All jurisdictional requirements have been met.

2. The property is located in the RA Single Family Residential Zone; and consists of a lot with dimensions of 50.00' x 100.00' feet improved with a two story single family home.
3. Applicant is requesting variance relief to install a 14.5 x 32 foot swimming pool in the rear of the property; landscaping is proposed, as are an expanded roof overhang of three (3) feet at the rear of the house, to provide cover for an outdoor cooking area; the proposal also provides for the placement of the air conditioning equipment and swimming pool equipment platforms within the side yard of the existing house.
4. The Board adopts the contents of the September 18, 2017 letter from Owen, Little & Associates, Inc., entered into evidence as Exhibit B-1, as if set forth herein at length.
5. Applicant proposes to place the swimming pool within five (5') feet from the rear yard and five (5) feet from the side yard setback where a ten (10') foot setbacks are required; variances are requested; the proposed roof overhang at the rear of the house, is three (3') feet; which will be utilized in the calculation of building coverage and as part of the structure for setback calculations; the proposed roof overhangs at the sides of the building are 1.5 feet; less than 24 inches, and are exempted from building coverage and from setback calculations. The proposed platforms for air conditioning and swimming pool equipment will maintain a setback of 7.5 feet where 8 feet is required; a variance is requested. The proposed setback of the swimming pool is eight (8') feet to the main house, the setback to the roof overhang is five (5') feet; a variance is requested. Taking into account the size of the swimming pool, the roof overhang of three (3') feet together with a three (3') foot walkway around the swimming pool (Ordinance Section 13-7.3 d.), the building coverage is 48.6% where 48% is permitted; a variance is requested.
6. Applicant proposes to baffle the swimming pool equipment and air conditioning compressors.

7. The Board is concerned with the effect the proposed swimming pool will have upon the adjoining property; predicated upon the proposed proximity of the swimming pool and equipment to the neighbor.
8. The submitted plans do not address the proposed impervious coverage; which is limited to 75% pursuant to ordinance; and

WHEREAS, applicant has requested the Board to carry the application to the October 19, 2017 meeting to enable applicant an opportunity to reconsider the proposal and to revise the plans to address concerns raised by the Board and adjoining property owner. Counsel waived the statutory time constraints on his client's behalf. The adjournment request was granted without any further publication or notice being required; and

WHEREAS, applicant had not filed revised plans in a timely manner and request the hearing be adjourned until the November 16, 2017 meeting; the Board granted the adjournment subject to applicant re-noticing and republishing notice; and

WHEREAS, the public hearing was continued on November 16, 2017 when applicant appeared pro se. The plan prepared by Nelke/Tyszka Land Surveyors LLC titled "Variance Plan T.M. Lot 5 – Block 37 Tax Map sheet #4 Borough of Harvey Cedars, Ocean County, New Jersey" dated August 30, 2017, with a final revision date of October 13, 2017 under signature and seal of Leon J Tyszka, P.L.S. was entered into evidence as Exhibit A-4;. The review letter from Owen, Little & Associates, Inc., under signature of Frank J. Little, Jr. P.E., P.P., and C.M.E., dated November 2, 2017, Second Review, was entered into evidence as Exhibit B-2. Testimony was offered by Joseph Holl, the applicant and David Ash, applicant's contractor. Public comment was offered by Charles Lott and Edward Zorn;

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

9. Applicant's plans provide for a setback of 7 feet to the roof overhang from the swimming pool.
10. The air conditioning equipment and air conditioning platform was relocated to the east side of the building, whereupon a 7.5 foot setback to the easterly property line is proposed; the set back to the westerly property line will be maintained at 10 feet to the building and 8.5 feet to the roof overhang.
11. The westerly setback to the main building will be maintained at 10 feet; the setback to the air conditioning platform and swimming pool equipment will be maintained at 7.5 feet; and the setback to the roof overhang will be maintained at 8.5 feet.
12. Applicant has reduced the size of the swimming pool to 11.83 feet by 25.58 feet; whereupon the proposed building coverage will be 40.3%, eliminating the request for a building coverage variance.
13. The revised plans propose impervious coverage at 67.9%; less than the 75% permitted
14. Applicant is requesting variances to permit the side yard setback to the proposed swimming pool of 5 feet and a rear yard setback to the swimming pool of 5 feet.
15. Applicant will be revising the plans to provide plantings five (5') feet from the paving.
16. The Board queried applicant regarding the maintenance of the ten (10 foot setback from the swimming pool to the westerly property line. Applicant desires to leave an area around the swimming pool for open space; and

WHEREAS, the Land Use Board of the Borough of Harvey Cedars has determined that the relief requested by the applicant Joseph Holl for variances to permit the installation of an in ground swimming pool with five (5') foot side and rear yard setbacks; locating an air conditioning platform and pool equipment platform at a 7.5' foot setback; and to maintain a seven (7') foot distance to the rear roof overhang at property known and designated as Lot 5 Block 37; 6405 A Long Beach Boulevard in the

Borough of Harvey Cedars, County of Ocean and State of New Jersey; cannot 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; and applicants have not demonstrated sufficient criteria for a hardship under NJSA 40:55D-70 (c) 1 or NJSA 40:55D-70 (c) 2.

NOW, THEREFORE, BE IT RESOLVED by the Land Use Board of the Borough of Harvey Cedars that the application of applicant Joseph Holl for variances to permit the installation of an in ground swimming pool with five (5') foot side and rear yard setbacks; locating an air conditioning platform and pool equipment platform at a 7.5' foot setback; and to maintain a seven (7') foot distance to the rear roof overhang at property known and designated as Lot 5 Block 37; 6405 A Long Beach Boulevard in the Borough of Harvey Cedars, County of Ocean and State of New Jersey, be and hereby is denied.

MARY PAT BREARLEY, SECRETARY

-CERTIFICATION-

I, MARY PAT BREARLEY, Secretary of the Zoning Board of Adjustment 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 Zoning Board of Adjustment of the Borough of Harvey Cedars at a public meeting held on December 21, 2017.

MARY PAT BREARLEY