

**RESOLUTION OF MEMORIALIZATION OF THE LAND USE
BOARD OF THE BOROUGH OF HARVEY CEDARS COUNTY OF
OCEAN AND STATE OF NEW JERSEY
DOCKET NO. 2017:04V/SP**

WHEREAS, Regina Lucowicz has made application to the Land Use Board of the Borough of Harvey Cedars for variances and site plan to permit the use of the first floor of the mixed use building as an architectural office; retaining the residential use on the second floor at property known and designated as Lot 1 Block 55; 7601 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 April 20, 2017. The applicant was represented by James S. Raban, Esq. The application dated March 30, 2017 was entered into evidence as Exhibit A-1; the plan prepared by Horn, Tyson & Yoder, Inc. titled "Site Plan Lot 1, Block 55 Tax Map Sheet #6 Borough of Harvey Cedars, Ocean County, New Jersey" dated December 28, 2016 under signature and seal of James D. Brzozowski, PE, PP and Hayes A. Hewitt, PLS was entered into evidence as Exhibit A-2; the plans prepared by Studio Tagland Designs, LLC title Proposed Alteration to an Exist. Commercial Space-Lot 1 Block 55 Borough of Harvey Cedars Ocean County, New Jersey Applicant: Regina Lukowicz" consisting of one (1) sheet, dated March 28, 2017 under signature and seal of David A. Gaffin, Architect was 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 April 13, 2017 was entered into evidence as Exhibit B-1. Testimony was offered by James D. Brzozowski, applicants' engineer and planner and Richard T. Tagland, owner of the proposed occupant. Public comment was offered by Linda Jud Richmond, the owner of adjoining properties.

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

1. All jurisdictional requirements have been met.

2. The applicant is purchaser under contract of the property. The property is owned by CBCG Holding, LLC of the property.
3. The property is located in the LC Limited Commercial Zone. The property has dimensions of 60 x 50 feet, containing 3,000 square feet. It is improved with a two story building, and attached freezer, which applicants intends to remove.
4. The property is located on the northeast corner of Long Beach Boulevard and 76th Street. The building setback to Long Beach Boulevard is 13.5 feet where 15 feet is required and the building setback to 76th Street is 13.7 feet where 15 feet is required. The side yard setbacks are 4 feet and 0 feet where 10 feet is required at each side yard. The lot coverage without decks is 42.1%; by removing the freezer the proposed building coverage without decks is 41.4% where 29% is permitted. The total lot coverage is 47.5%, 46.9% is proposed, and 33% is permitted. The impervious coverage is 100% where 75% is permitted.
5. The property contains a full service restaurant on the first floor and apartment on the second floor. Applicant proposes to eliminate the restaurant use and establish a professional office at the first floor for architectural uses. Other than cosmetic changes; applicant does not propose to change or modify the building or footprint.
6. Applicant testified that the building will be painted and some windows will be changed; the interior layout will be changed in accordance with the plans entered into evidence. Applicant will remove the attached exterior freezer and kitchen exhaust ducts.
7. Applicant is requesting variance relief from the parking requirement of 12 spaces. Applicant proposes four (4) parking spaces abutting 76th Street, with dimensions of 9 x 13.7 feet; less than 10 x 18 feet required under Borough Ordinances. One of the spaces will be designated handicap accessible with a loading area.
8. The submitted plans propose a full curb along Long Beach Boulevard and depressed curbing along 76th Street.

9. Applicant proposes to install a trash enclosure for trash cans, under the deck at the southeast corner of the building.
10. Applicant is requesting a waiver from installing sidewalks at the property.
11. Applicant also is requesting that the sign remain where located at the northerly property corner at Long Beach Boulevard, encroaching into the right of way.
12. Applicant testified that the proposed hours of operation are 8:00 AM to 5:00 PM. There will not be substantial traffic at the site, many of the client appointments consist of site visits and appointments away from the office.
13. The Board and applicant discussed alternative parking delineations at the site to increase off street parking.
14. After testimony was received by the adjoining property owner, the Board finds that sign should be elevated to provide visual clearance for the neighboring property; also the sign should be located entirely upon the subject property; it currently encroaches slightly into the right of way. Applicant will raise and relocate the sign within the boundary of the property.
15. Applicant also indicated that the lot will be landscaped; and that the Belgium block curbing around the stop sign on the corner will be modified; to improve accessibility at the crosswalk; and

WHEREAS, applicant has requested the Board to carry the application to the May 18, 2017 meeting to enable applicant an opportunity to amend the plans to relocate the sign; improve upon the parking, and provide landscaping and address the blocks and encroachment around the stop sign. Counsel waived the statutory time constraints on his clients behalf. The adjournment request was granted without any further publication or notice being required; and

WHEREAS, the public hearing was continued on May 18, 2017 when applicant appeared with counsel James S. Raban, Esq. The plan prepared by Horn, Tyson & Yoder, Inc. titled "Site Plan Lot 1, Block 55 Tax Map Sheet #6 Borough of Harvey

Cedars, Ocean County, New Jersey” dated December 28, 2016 with a revision date of May 10, 2017 under signature and seal of James D. Brzozowski, PE, PP and Hayes A. Hewitt, PLS 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 May 16, 2017, Second Review, was entered into evidence as Exhibit B-2. Testimony was offered by James D. Brzozowski, applicants’ engineer and planner and Richard T. Tagland, husband of applicant and the proposed occupant of the office. There was not any public comment offered;

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

16. Applicant will remove the existing blacktop along 76th Street and replace same to provide a maximum slope of 2% within the van accessible parking space.
17. The parking on the south side of the building has been shifted toward the boulevard; adding an additional space, for a total of five (5) spaces with the handicap accessible space closest to Long Beach Boulevard. Wheel stops for each parking space shall be provided.
18. Applicant will remove the Belgium block and planter at the corner of the property, currently surrounding the stop sign; she will construct a handicap ramp at the corner and provide a detectable warning surface at the corner of Long Beach Boulevard and 76th Street; as designated on the revised plan.
19. Applicant will remove four (4) feet of blacktop in front of the building at Long Beach Boulevard; and install plantings as reflected on the revised plan. Remaining blacktop to remain to provide for safety of pedestrians and cyclists. The plantings as proposed will be supplemented to be approved by the Board engineer.
20. The impervious coverage is being reduced from 100% to 81.3%.

21. Applicant proposes to raise the sign to six (6) feet above grade, and relocate same four (4) feet within the property. The relocation and elevating of the sign should eliminate the visual obstruction of the existing sign; and the sign and location as proposed conforms to the Borough Ordinances. Applicant further testified that it is their intention that the sign will be eliminated within five (5) years, with signage being placed upon the building.
22. Applicant has modified the application removing the curb along Long Beach Boulevard. A waiver is being requested; however jurisdiction for that waiver ultimately is vested with Ocean County. The curbing along 76th Street has also been eliminated from the plan, but for the curb return at the corner of 76th Street and Long Beach Boulevard. Applicant is requesting a waiver from installing any other curbing on 76th Street.
23. Predicated upon the revised plans; applicant is requesting waivers from installing curbs and sidewalks, but for the curbing provided at the corner of 76th Street and Long Beach Boulevard.
24. Any lighting at the site will be building mounted or ground lighting without having any impact upon adjoining residential properties or encroachment into the Streets to avoid any impact upon traffic.
25. Applicants engineer testified that the handicap accessible parking stall encroaches into the Borough site triangle however the AASHTO site triangle standard, acceptable to Ocean County is not encroached upon. A waiver from providing the Borough site triangle is requested.
26. Board adopts the contents of the May 16, 2017 letter from Owen Little & Associates, Inc. as if set forth herein at length.

WHEREAS, the Land Use Board of the Borough of Harvey Cedars has determined that the relief requested by the applicant Regina Lukowicz for variances and site plan to permit the use of the first floor of the mixed use building as an architectural office retaining the residential use on the second floor at property known and designated as Lot 1 Block 55; 7601 Long Beach Boulevard, 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. The proposed architectural, professional office use is a permitted use in the zone; the parking at the site is preexisting, and the parking requirements for the office use is less than required for the existing restaurant use and the accessory apartment use at the building. Applicant will be eliminating any parking on Long Beach Boulevard; improving the parking location and delineation upon the south side of the building; providing a handicap accessible space at a grade not to exceed 2%; and providing wheel stops. The elimination of parking on Long Beach Boulevard and removal of the four feet of blacktop and installation of landscaping will benefit pedestrian and cyclist traffic. Applicant will improve the site by removing impervious coverage; relocate the signage to conform to Borough Ordinance requirements and eliminate the site obstruction and further eliminate the encroachment into the right of way. The removal of the Belgium block and planter at the corner and installation of a handicap ramp at the corner of 76th Street and Long Beach Boulevard will provide a benefit to the Borough and a safer means of access and egress for pedestrians; the site will be enhanced and the use is permitted in the zone and a less intense use than the prior restaurant uses at the site.

NOW, THEREFORE, BE IT RESOLVED by the Land Use Board of the Borough of Harvey Cedars that the relief requested by the applicant Regina Lukowicz for variances and site plan to permit the use of the first floor of the mixed use building as an architectural, professional office; retaining the residential use on the second floor at property known and designated as Lot 1 Block 55; 7601 Long Beach Boulevard, in the Borough of Harvey Cedars, County of Ocean and State of New Jersey Zoning, be and hereby is conditionally approved.

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 May 16, 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 FEMA requirements and 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 and proposed use.

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; including but not limited to the Ocean County Planning Board.

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. Applicant shall also pay and post all inspection fees, performance guarantees and maintenance bonds as may be required, in amounts established by the Borough Engineer, and in such form as required by the Borough Solicitor.

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 representations as set forth herein and as placed on the record at the public hearing conducted on April 20, 2017 and May 18, 2017 when this matter was considered.

BE IT FURTHER RESOLVED that this approval is subject to and conditioned upon applicants complying with any and all technical revisions and submissions as the Borough Engineer may require.

BE IT FURTHER RESOLVED that this approval is for variance relief from existing bulk conditions; variance from the parking requirements and design requirements for parking spaces; and for waivers from providing sidewalks on Long Beach Boulevard and 76th Street. Applicant is provided with a waiver from providing curbing of 76th Street; and a waiver from providing curbing on Long Beach Boulevard; subject to the decision of the Ocean County Planning Board; if a waiver from curbing is not granted by that body, applicant will revise the plans accordingly and provide copies to this Board for review. Applicant is also granted a waiver from meeting the Harvey Cedars site triangle requirements; the property shall maintain the AASHTO site triangle standards.

BE IT FURTHER RESOLVED that initially trash and debris will be maintained on the property in cans under the landing, to be placed at the curb for retrieval by the occupants of the property. In the event the proposed uses generate substantial trash and debris, to be determined by the Code Enforcement Officer; applicant or its successors shall construct a trash enclosure, pursuant to Borough Ordinances and arrange for private carting; the location and design of same to be approved by the Board Engineer.



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 Review Board of the Borough of

Harvey Cedars at a public meeting held on June 15, 2017.

Mary Pat Brearley

MARYPAT BREARLEY, SECRETARY