

**RESOLUTION OF MEMORIALIZATION OF THE LAND USE
BOARD OF THE BOROUGH OF HARVEY CEDARS,
COUNTY OF OCEAN AND STATE OF NEW JERSEY
DOCKET NO. 2018:05**

WHEREAS, Eugene Grybowski has made application to the Land Use Board of the Borough of Harvey Cedars for variances to permit a side yard setback of 8.65 feet from newly constructed living area proposed with raising and elevating the house located 3 W. 83rd Street, Lot 2 Block 75 in the Borough of Harvey Cedars, County of Ocean and State of New Jersey; and

WHEREAS, this matter was presented to the Land Use Board at a public hearing conducted on November 15 2018. Applicant appeared pro se. The application dated October 21, 2018 was entered into evidence as Exhibit A-1; the Plot Plan Survey of the property prepared by Nelke/Tyszka Land Surveyors, Inc. titled "Plot Plan of Survey T.M. Lot(s) 2 Block 75 Tax Map Sheet #7 Borough of Harvey Cedars, Ocean County, New Jersey aka P/O Lot 10,12,14 & 16 Bl 185, F.M. #B-287": dated August 3, 2018; was entered into evidence as Exhibit A-2: two (2) photographs of the property, the top photograph of the front of the house; with the lower photograph being an aerial photograph of the property; were entered into evidence as Exhibit A-3; the Plot Plan Survey of the property prepared by Nelke/Tyszka Land Surveyors, Inc. titled "Plot Plan of Survey T.M. Lot(s) 2 Block 75 Tax Map Sheet #7 Borough of Harvey Cedars, Ocean County, New Jersey aka P/O Lot 10,12,14 & 16 Bl 185 ,F.M. #B-287":dated August 3, 2018 with proposed changes and modifications included thereon further titled as "Proposed Survey" as entered into evidence as Exhibit A-4; plans title "Additions and Alterations for Grybowski Residence Lot 2 Block 75 Borough of Harvey Cedars, O.C., N.J" dated Nov 2017 with a final revision date of 7/26/2018 prepared by Robert B. Roth, Jr. Architect, Sheet A-1; Sheet A-2 and A-3 was entered into evidence as Exhibit A-5. The review letter from Owen, Little & Associates, Inc., under signature of Frank J. Little, Jr., dated October 30, 2018 was entered into evidence as Exhibit B-1. Testimony was offered by Eugene Grybowski the applicant. Public comment was offered by William Rutherford the adjoining property owner; and

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

1. All jurisdictional requirements have been met.
2. Applicant is the owner of the property.
3. The property is located in the RA Single Family Residential Zone.
4. The property consists of a lot with dimensions of 50 x 100 feet developed with a two (2) story single family home with a detached shed. The existing building height is 22.14 feet and the first floor elevation is 7.6 feet. The front yard setback to the house is 24.85 feet; with a front yard setback of 15.85 feet to the second floor deck. The side yard setbacks are 8.15 feet and 7.84 feet.
5. Applicant proposes to raise the existing house to a first floor elevation of 14.34 feet with a building height of 28.88 feet. When raising the house, he will maintain the existing side yard setbacks. The house however will be moved 4.2 feet toward the rear of the lot; to provide a front yard setback of 20 feet to the second floor deck and 16.67 feet to the new front stairs and landing and 25 feet to the building. Applicant proposes to enclose the existing area under the deck, providing an “all season’s room”; construct a second floor addition over the existing deck; relocate the shed to maintain 10 foot setbacks. As the addition on the second floor will be constructed at the nonconforming side yard setback of 8.65 feet, variance relief is requested. The second floor addition has dimensions of 8 x 13.85 feet.
6. Applicant is also requesting a waiver/variance from complying with the requirements of Ordinance 2018-13 at Section 2 12-8.11B requiring the filling of the lot to a minimum elevation of twenty (20) inches above the crown of the road fronting said land.
7. Applicant is also requesting a waiver/variance from Ordinance Section 12-10 requiring the installation of underground utilities to the house and also

from Section 9-10.13 B-2 providing a recharge system for storm water control.

8. Applicant testified that the elevation of the existing house was not less than the crown of the road; which was the standard for requiring the raising of the lot elevation, prior to the adoption of Ordinance 2018-13 which became effective on September 7, 2018. Ordinance 2016-06 was amended to eliminate those criteria.
9. Applicant also testified that the elevation of his property is not problematic; and the removal of the exterior landscaping will create a hardship to him.
10. The Board finds that the lot elevation is appropriate for all lots in the Borough as a means of future protection from the damage and devastation of flooding; the Ordinance in question is under the Flood Protection provisions of the Borough Ordinances.
11. The Board further finds that the installation of underground utilities should be addressed by applicant; upon the performance of the development of his property, the installation of underground utilities should not create any difficulty or substantial work to be performed. The majority of the properties on the street are serviced by underground utilities.
12. The variance request is for an existing setback; the proposed addition is within the existing footprint; it will not have any negative impact upon surrounding properties;
13. The Board finds that it has authority to consider the requests of applicant.
14. The elevation of the lot must be accomplished with an appropriate grading plan, and such retaining walls as are necessary to prevent drainage upon adjoining properties.
15. Applicant will be responsible to satisfy the construction department and Borough engineer to assure that draining at the site meets all Borough standards; and that the property does not drain upon adjoining properties
16. The proposed addition will not adversely affect the light, air or open space of any adjoining properties.

17. The Board adopts the contents of the October 30, 2018 letter of Owen, Little and Associates, Inc. as if set forth herein at length; and

WHEREAS, the Land Use Board of the Borough of Harvey Cedars has determined that the relief requested by the applicant, Eugene Grybowski for variances to permit a side yard setback of 8.65 feet from newly constructed living area proposed with raising and elevating the house located 3 W. 83rd Street, Lot 2 Block 75 in the Borough of Harvey Cedars, County of Ocean and State of New Jersey; in accordance with plans entered into evidence as Exhibits A-2 and A-3, can be granted without substantial detriment to the public good and will not impair the intent of the zone plan or zoning ordinances of Harvey Cedars. The addition will be constructed within the existing footprint and will not have any negative impact upon the adjoining properties. Notwithstanding applicant has not demonstrated appropriate reasons to obtain relief from the Borough requirement to elevate the lot by twenty (20) inches, and satisfy the grading and drainage to the satisfaction of the Borough construction department and Board engineer. Applicant also has not provided sufficient criteria to be relieved of installing underground utilities.

NOW, THEREFORE, BE IT RESOLVED by the Land Use Board of the Borough of Harvey Cedars that the application of Eugene Grybowski for variances to permit a side yard setback of 8.65 feet from newly constructed living area proposed with raising and elevating the house located 3 W. 83rd Street, Lot 2 Block 75 in the Borough of Harvey Cedars, County of Ocean and State of New Jersey; in accordance with plans entered into evidence as Exhibits A-2 and A-3 , 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 October 30, 2018, as entered into evidence as Exhibit B-1.

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.

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 Zoning Board with respect to Borough Ordinances, including the Zoning Ordinances.

BE IT FURTHER RESOLVED that Applicant has not been granted waiver/variance relief from raising the lot by twenty (20) inches; to be graded to the satisfaction of the Construction Department and Borough Engineer; and further shall conform to all storm water management requirements to provide appropriate drainage; and to install such retaining walls or other means to assure that the drainage does not run on adjoining properties. Applicant shall also install underground utilities in conjunction with the development; his request for variance/waiver relief has not been granted.

BE IT FURTHER RESOLVED that this approval is subject to all representations and conditions placed on the record at the public hearing conducted on November 15, 2018 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 December 20, 2018.

MARY PAT BREARLEY, SECRETARY