

**RESOLUTION OF MEMORIALIZATION OF THE LAND USE BOARD OF THE
BOROUGH OF HARVEY CEDARS, COUNTY OF OCEAN AND STATE OF
NEW JERSEY
DOCKET NO. 2017:02**

WHEREAS, Gary O. Siemons and Elissa A. Favata have made application to the Land Use Board of the Borough of Harvey Cedars for variances to permit the construction of a second floor addition together with a second floor deck over the first floor deck; and exterior stairs to their single family home known and designated as Lots 23 and 23.01 Block 58; 72 W. 80th Street 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 February 16, 2017. The applicant was represented by Richard P. Visotcky, Esq. The application dated December 12, 2016 was entered into evidence as Exhibit A-1; the plan prepared by Horn, Tyson & Yoder, Inc. titled "Variance Map Lots 23 & 23.01, Block 58, Tax Map Sheet # 7 Borough of Harvey Cedars, Ocean County, New Jersey" dated December 1, 2014, with a final revision date of November 15, 2016 under signature and seal of James D. Brzozowski, PE, PP and Hayes A. Hewitt, PLS was entered into evidence as Exhibit A-2; architectural plans prepared by Craig W. Brearley AIA Architect titled "Siemons-Favata Residence Lot 23 Block 58, Harvey Cedars Borough, Ocean County, New Jersey" containing Sheet BD-1 Preliminary Floor Plans; Sheet BD-2 Preliminary Floor Plans; and Sheet BD-3 Preliminary Elevations, dated October 14, 2016 under signature and seal of Craig W. Brearley AIA was entered into evidence as Exhibit A-3; a photograph of the of the property taken from the dock, showing the west side of the house was entered into evidence as Exhibit A-4; two (2) photographs of the property, the top photograph showing the house from the 80th Street; and the bottom photograph showing the existing stairway on the northerly side of the house, from 80th Street were entered into evidence as Exhibit A-5; a photograph of the northerly side of the house showing the existing deck extension towards the bay was entered into evidence as Exhibit A-6. The review letter from Owen, Little & Associates, Inc., under signature of Frank J. Little, Jr., dated February 8, 2017 was entered into evidence as Exhibit B-1.

Testimony was offered by James D. Brzozowski, applicant's engineer and professional planner and by Craig W. Brearley, applicant's architect. There was not any public comment; 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. The property is located in the RA Single Family Residential Zone.
3. The property consists of a lot with gross dimensions of 50 x 100 feet; located on the side of West 86th Street.
4. The property is developed with an elevated two story single family home. The second story covers a partial portion of the first floor. The house was constructed in 1986 and applicants acquired the property in 1991.
5. The property is located at the southwest corner of 80th Street and the Bay; and includes the upland property, Lot 23 and the riparian property Lot 23.01. The upland lot area contains 5,626.8 square feet.
6. The property currently maintains a side yard setback of 8 feet to the adjoining property to the south, Lot 22. Current zoning requirements mandate a 10 foot side yard setback.
7. Applicants propose to construct an addition to the second floor of the house; and construct a second floor deck over the existing first floor deck on the bay front and north side of the house. Applicants further propose exterior stairs and landing on the north side of the house and at the bay front.
8. But for the new stairs and landings, the proposed construction will be contained within the existing foot print of the building.
9. The existing building height is nonconforming at 31.6 feet; 30 feet is permitted. Applicant is requesting variance relief to permit a height of 32 feet; however according to Applicants architect the highest portion of the

building, a proposed gable roof over the dining area will not exceed 31 feet 8 inches. The easterly portion of the house will conform to the 30 foot height requirement. The height at the stair tower and peak area over the proposed dining area will exceed the height requirements, not to exceed 31 feet 8 inches.

10. As part of the renovation, applicant will be modifying the interior of the house and changing the exterior appearance; by providing a shake and clapboard exterior and gable roofs. The Board finds that the plans submitted provide an aesthetic improvement to the property.
11. The proposed development provides for a front yard setback, on the bay front of 14.3 feet to the proposed stairs; the existing setback is 17.8 feet, where 15 feet is required; the set back to the deck will remain at 17.8 feet. The proposed stairs and landing are partially built within the deck. The proposed front yard setback to 80th Street is 7.5 feet to the stairs and landing; the existing setback to the deck and stairs is 14.5 feet. The proposed stairs and landing will provide symmetry, with stairs on both sides of the landing and an aesthetic improvement to the entry of the house; and will not impede lights or air of the adjoining property, as that property to the east maintains a 7.6 foot front yard setback to the building.
12. The Board discussed applicant constructing the second floor addition within the required 10' foot side yard setback; but after considering testimony of Applicants architect, determined it was not practical for this development; and a portion of the second floor currently exists; and architecturally the offset is not necessary.
13. As a result of the proposed exterior stairways; the building coverage will be increased from 32.5%, to 33.6%, variance relief is requested. As part of the development applicant proposes a 2.5 x 5.5 foot platform for a generator; adjacent to the air conditioning platform; that together with the additional stairs generate the additional building coverage. The location of the generator platform and the stairs, as previously referenced herein will not have any deleterious effect upon the surrounding properties; and with

the additional riparian area adjoining the property and aesthetic improvements the board may grant the variance requested for building coverage. The floor area ratio is proposed at 47.7% and will remain conforming.

14. The Board adopts the contents of the February 8, 2017 letter from Owen, Little and Associates, Inc. entered into evidence as Exhibit B-1 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 applicants, Gary O. Siemons and Elissa A. Favata for variances to permit the construction of a second floor addition together with a second floor deck over the first floor deck; and exterior stairs to their single family home known and designated as Lots 23 and 23.01 Block 58; 72 W. 80th Street in the Borough of Harvey Cedars, County of Ocean and State of New Jersey in accordance with the plans entered into evidence as Exhibits A-2 and A-3, whereupon the second floor addition will be constructed utilizing the existing 8 foot side yard setback; with building coverage being increased to 33.6% at a height not to exceed 32 feet, with a setback of 7.5 feet to the stairs and landing at 80th Street and a setback from the bulkhead to the stairs and landing of 14.3 feet 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 addition is proposed within the existing footprint; the increase in building coverage, and setbacks are generated by stairs, landings and the generator platform which will not create any impediment to the light or air of surrounding properties; the excessive height substantially conforms to that which exists; and will effect a limited area of the building.

NOW, THEREFORE, BE IT RESOLVED by the Land Use Board of the Borough of Harvey Cedars that the application of Gary O. Siemons and Elissa A. Favata for variances to permit the construction of a second floor addition together with a second floor deck over the first floor deck; and exterior stairs to their single family home known and designated as Lots 23 and 23.01 Block 58; 72 W. 80th Street in the Borough of

Harvey Cedars, County of Ocean and State of New Jersey in accordance with the plans entered into evidence as Exhibits A-2 and A-3, whereupon the second floor addition will be constructed utilizing the existing 8 foot side yard setback; with building coverage being increased to 33.6% at a height not to exceed 32 feet, with a setback of 7.5 feet to the stairs and landing at 80th Street and a setback from the bulkhead to the stairs and landing of 14.3 feet 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 February 8, 2017, 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 all conditions as contained herein and as placed on the record at the public hearings conducted on February 16, 2017.

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 this approval is subject to all representations made by applicant and their witnesses as placed on the record at the public hearing conducted on February 16, 2017 when this matter was considered.

BE IT FURTHER RESOLVED that this approval is subject to the finished building height not exceeding 32 feet at the peak of the new gable roof above the proposed dining area and at the stair tower (the balance of the building will maintain the 30 foot height requirements of the Borough Ordinances; the building coverage not exceeding 33.6%; the setback from 80th Street to the new stairs and landing not being less than 7.5 feet; and the setback from the bulkhead to the new steps and landing not being less than 14.3 feet.



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 March 16, 2017.



MARY PAT BREARLEY, SECRETARY