

**RESOLUTION OF MEMORIALIZATION OF THE  
LAND USE BOARD THE BOROUGH OF HARVEY CEDARS  
COUNTY OF OCEAN AND STATE OF NEW JERSEY  
DOCKET NO. 2019:04**

**WHEREAS**, William C. Sheffield has made an application to the Land Use Board of the Borough of Harvey Cedars for an interpretation of the Zoning Ordinances of the Borough of Harvey Cedars for a determination of the applicant's Buildable Lot Area and to appeal the decision of the Zoning Officer in establishing yard areas at applicant's property known and designated as Lot 9 and 10 Block 24 located at 12 East Burlington Avenue, 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 June 20, 2019. The applicant appeared pro se.

The application dated May 28, 2019 together with the Documents in Support of the Application, Brief in Support of Application; Sketch in Support of Application; CAFRA Permit 1509 18-0011.0 and Approved Plan; two (2) Photographs of the Property; Certification of Payment of Harvey Cedars Taxes; Form of Notice for mailing; and Form of Notice for Publication; and affidavit of ownership, was entered into evidence as Exhibit A-1. The review letter from Owen, Little & Associates, Inc., under signature of Frank J. Little, Jr., dated June 24, 2019 was entered into evidence as Exhibit B-1. Testimony was offered by William Sheffield, the applicant. Public comment was offered by Robert Sheffield, the son of applicant and by Virginia Cajigal.

**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. Applicant William C. Sheffield and Amy G. Sheffield, husband and wife are the owners of the property. Applicants purchased Lot 10 Block 24, 12

East Burlington Avenue, a lot with dimensions of 50 x 120 feet improved with a two family home in November 2014. They purchased Lot 9 Block 24, a vacant lot known as 14 East Burlington Avenue, an undevelopable lot, being located within the Beach Dune Area, having dimensions of 60 x 100 feet; in September 2015. When acquired that property did not front on an improved street. The properties are merged and treated as a single lot that has six boundary lines.

3. Applicant has presented to the Board language from Chapter 13 of the Code of Harvey Cedars, the Zoning Ordinances for a determination that there are yards on any given property in the R-A Zone as set forth in Section 13-9.4 "Area and Yard Requirements" of the Borough Code: 1. A front yard of twenty (20) feet; 2. A rear yard of ten (10) feet; and 3. Two (2) side yards, each ten (10) feet shall be provided; 4. The front yard setback of twenty (20) feet may be decreased to fifteen (15) feet for the construction of decks or open porches...; 5. The front yard setback of twenty (20) feet may be decreased to fifteen (15) feet for oceanfront properties.
4. He further referred to Section 13-3 "Definitions" of the Code to determine the yards he requires for his property.
5. The Board notes that applicant's property initially consisted of Lot 10 Block 24, which has dimensions of 50 feet on Burlington Avenue, and lies north to south 120 feet perpendicular. Lot 9 is a vacant parcel, with 100 feet along Burlington Avenue, that extends north to south sixty (60) feet; being an undevelopable property due to environmental constraints of being located in the Beach Dune area. The rear boundary of the Lot 9 portion of the lot terminates at the midpoint of the depth of Lot 10.
6. Applicants' interpretation of Section 13-9.4 reflects that his front yard is 15 feet from the Burlington Avenue; that he is bound to a 10 foot wide easterly side yard only for the initial sixty (60) feet of the property to the common lot line with Lot 8 using only the Lot 9 portion of the property for that yard; a 10 foot rear yard at the southerly terminus of Lot 10, 120'

feet from Burlington Avenue; and a ten (10) foot westerly sided yard along the 120 foot length of Lot 10.

7. Based upon his interpretation, there is not any yard required along the easterly property line for the rear 60 feet of Lot 10 and the adjoining property to the east, Lot 8, presently owned by the Borough.
8. The Board finds that to thus restrict the measurement of setbacks as proposed by applicant would effectively violate the mandates and purposes of the Municipal Land Use Law :

*40:55D-2. Purpose of the act.*

*It is the intent and purpose of this act:*

- a. To encourage municipal action to guide the appropriate use or development of all lands in this State, in a manner which will promote the public health, safety, morals, and general welfare;*
- b. To secure safety from fire, flood, panic and other natural and man-made disasters;*
- c. To provide adequate light, air and open space;*
- d. To ensure that the development of individual municipalities does not conflict with the development and general welfare of neighboring municipalities, the county and the State as a whole;*
- e. To promote the establishment of appropriate population densities and concentrations that will contribute to the well-being of persons, neighborhoods, communities and regions and preservation of the environment;*
- f. To encourage the appropriate and efficient expenditure of public funds by the coordination of public development with land use policies;*
- g. To provide sufficient space in appropriate locations for a variety of agricultural, residential, recreational, commercial and industrial uses and open space, both public and private, according to their respective environmental requirements in order to meet the needs of all New Jersey citizens;*

*h. To encourage the location and design of transportation routes which will promote the free flow of traffic while discouraging location of such facilities and routes which result in congestion or blight;*

*i. To promote a desirable visual environment through creative development techniques and good civic design and arrangement...*

**NOW THEREFORE BE IT RESOLVED BY THE LAND USE BOARD OF THE BOROUGH OF HARVEY CEDARS**, taking into account the clear language of the ordinances, and the intent of the zone plan, zoning ordinances and master plan, and that this interpretation applies to all properties within the Borough, not only the property of Applicant the Board finds that the original intent of the Codes as enacted were that yard areas are required along all property lines, and are not limited to only one (1) front yard; two (2) side property lines and/or a single rear property line; and shall be applied thusly to all the boundaries of an odd shaped lot, and to lots with more than four property lines. The required yard areas apply to the entire boundary of a property; and

**BE IT FURTHER RESOLVED** by the Land Use Board of Harvey Cedars, that the request of William Sheffield for interpretation has been above stated; and further that the action of the Zoning Officer in her interpretation of the Zoning Ordinance and yard requirements is affirmed; and

**BE IT FURTHER RESOLVED**, that applicant may pursue his request for variance relief from the setbacks established herein, upon proper notice and publication.

  
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**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 July 18, 2019 as corrected at that meeting.

  
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**MARY PAT BREARLEY, SECRETARY**

