

**RESOLUTION OF MEMORIALIZATION OF THE LAND USE BOARD OF THE  
BOROUGH OF HARVEY CEDARS, COUNTY OF OCEAN AND STATE OF  
NEW JERSEY  
DOCKET NO. 2018:06**

**WHEREAS**, Sussex, LLC has made application to the Land Use Board of the Borough of Harvey Cedars for variances to permit the renovation of the existing single family home, and adding additions to the first and second floor at its property known and designated as Lot 9 Block 43; 9 East Sussex Avenue 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. The applicant was represented by Richard P. Visotcky, Esq. The application dated October 22, 2018 was entered into evidence as Exhibit A-1; the plan prepared by Horn, Tyson & Yoder, Inc. titled “Variance Map Lot 9, Block 43, Tax Map Sheet # 5 Borough of Harvey Cedars, Ocean County, New Jersey” dated May 10, 2018, with a final revision date of October 19, 2018 under signatures and seals of James D. Brzozowski, PE, PP and Robert G. deBlois, PLS was entered into evidence as Exhibit A-2; architectural plans prepared by Craig W. Brearley AIA Architect titled “Lino Residence Lot: 9 Block: 43, Harvey Cedars Boro, Ocean County, New Jersey” containing Sheet BD-1 Preliminary Floor Plans; Sheet BD-2 Preliminary Floor Plans; and Sheet BD-3 Preliminary Elevations, dated September 14, 2018 under signature and seal of Craig W. Brearley AIA was entered into evidence as Exhibit A-3; two (2) photographs of the front of property were entered into evidence as Exhibit A-4; and two (2) photographs of the rear of the property were 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 James D. Brzozowski, applicant’s engineer and professional planner and by Craig W. Brearley, applicant’s architect, and by Richard Lino, a member of applicant. 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 RAA Single Family Residential Zone.
3. The property consists of a lot with gross dimensions of 50 x 64.57 x 22.40 x 5 x 75 x 111.81 feet; located on the north side of Sussex Avenue, second back from the Oceanfront. The lot contains 6,816 square feet where the minimum lot area required in the RAA Zone is 7,500 square feet. There is not any vacant land adjoining the subject property which could be acquired and utilized to increase the size of the subject property. The lot maintains a preexisting lot area, and applicant is requesting variance relief for this condition.
4. The property is owned by Sussex, LLC, a limited liability company whose members are Richard Lino and his sister Barbara Todd, each being 50 % percent members. The property was by Richard Lino, Ronald Lino and Barbara Todd in 2001 and was thereafter transferred to Sussex, LLC in 2012.
5. The property being is improved with a 36 year old single family house, developed with an elevated two story single family home. Applicant proposes to remodel the house, substantially within the existing foot print. Existing stairs on the westerly side of the house will be removed; a 3 x 14 foot addition is proposed on the north of the house; a 2 x 14 foot addition is proposed on the west side of the house; and a 4.3 x 28 foot addition is proposed on the southerly side, the front of the house.
6. The lot is irregularly shaped; and further maintains a 15.60 foot front yard setback; applicant proposes to remove the exiting front deck; construct a 4.3 x 28 foot addition and 6 x 28 foot deck at the front, elevated to the first floor of living space, not to interfere with the onsite parking; to maintain a front yard setback of 15.30 feet, variance relief is requested. The easterly

side yard setback is 9.2 feet where 10.00 feet is required; applicant proposes its front yard addition and new front deck to be constructed within that setback, not maintaining the required 10.00 feet, variance relief is requested.

7. The proposed slab elevation is 11.5 feet which complies with Borough Ordinances, the lot will be filled to meet the 11.5 foot elevation requirement and a retaining wall is proposed along the westerly property line.
8. The existing rear yard setback is 35.2 feet the proposed rear yard setback is 35.9 feet. Applicant testified that the additions and renovations have been designed to preserve their neighbors existing view lines. In that regard there is not any substantial addition towards the rear of the property.
9. The building coverage and floor area ratio shall remain conforming, the heated building coverage is increasing from 18.1% to 20.6%. The entire building coverage is decreasing from 25.4% to 23.7%. The floor area ratio is increasing to 41.1%.
10. The renovation will result in a two story reverse living house. The first floor living area, will now contain four (4) bedrooms and three (3) bathrooms; the second floor will be improved with a master bedroom and bathroom and a powder room; there will be an open floor plan containing a living room, dining room and kitchen. The ground floor will provide a garage and storage space; an outdoor shower, enclosed foyer with an elevator and interior stairway. There also will be a roof deck.
11. The roof line will be modified to maintain various roof pitches; the roof peak is proposed at 31.7 feet; where 30 feet is permitted, applicant is requesting variance relief; the flat roof areas will conform at a height of 27.6 feet where 28 feet is permitted; and the roof deck railings will conform at 30.6 feet where 31 feet is permitted.
12. The northeast corner of the property; where it abuts an access easement for the adjoining property is overgrown; applicant has agreed to clear a 10 x

10 foot triangular area to improve visibility and maneuverability at that location.

13. The Board adopts the contents of the October 30, 2018 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 applicant, Sussex, LLC for variances to permit the renovation of the existing single family home, and adding additions to the first and second floor at its property known and designated as Lot 9 Block 43; 9 East Sussex Avenue 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, 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 substantially within the existing footprint of the existing building; the lot area is preexisting; the proposed building coverage and floor area ratio are less than permitted in the zone; whereupon the finished structure will be constructed to scale; the building will be aesthetically pleasing; and the onsite parking will not be changed as a result of the proposed renovations and additions. The side yard and front yard setbacks are preexisting and the proposed changes are minimal. The proposed height to the roof peak of 31.7 feet will permit a roof pitch of 5/12 which is architecturally preferable to a 4/12 roof pitch which would enable applicant to meet the height restrictions. The proposed additions and renovations will not have any negative impact upon the surrounding properties; and will not impede or impair the light and air of adjoining properties

**NOW, THEREFORE, BE IT RESOLVED** by the Land Use Board of the Borough of Harvey Cedars that the application of Sussex, LLC for variances to permit the renovation of the existing single family home, and adding additions to the first and second floor at its property known and designated as Lot 9 Block 43; 9 East Sussex Avenue 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, 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 all conditions as contained herein and as placed on the record at the public hearings conducted on November 15, 2018.

**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 this approval is subject to and conditioned upon applicant clearing a triangular area of 10 x 10 feet at the northeast corner of its property; to improve visibility and vehicular maneuverability at that site.

**BE IT FURTHER RESOLVED** that applicant has been granted variance relief from the lot area requirement of the RAA Single Family Zone; permitting the existing lot area of 6,816.4 square feet; variance relief to maintain the existing 9.2 foot side yard setback; variance relief to permit a front yard setback of 15.3 feet; and a building height of 31.7 feet to the roof peak. The development will conform to all other bulk requirements of the Zone.

**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.

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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 December 20, 2018.

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**MARY PAT BREARLEY, SECRETARY**