

**RESOLUTION OF MEMORIALIZATION OF THE
LAND USE REVIEW BOARD OF THE BOROUGH OF HARVEY CEDARS
COUNTY OF OCEAN AND STATE OF NEW JERSEY
DOCKET NO. 2021:12**

WHEREAS, Mary Ellen Vatalaro and Michael Budd have made application to the Land Use Review Board of the Borough of Harvey Cedars for variances for Lots 19 & 19.01, in Block 62, commonly known as 8408 Bay Terrace. The applicant seeks variance approval for improvements on the premises which included enclosing an existing screened porch to create 48 s.f. of new heated living space on the second floor; enclose an existing storage area and create new garage space and reconfigure the pergola. The Applicant is seeking the following variances:

1. Side Yard Setback where 8.4 ft. is proposed and 10 ft. is required.
2. Lot coverage of 30% is proposed where 29% is permitted and 23.4 is existing.

WHEREAS, the Land Use Review Board considered this application at a public hearing on November 18, 2021. The applicant was represented by Richard Visotcky, Esq..

WHEREAS, the following exhibits were marked and entered in evidence:

- A-1 Application
- A-2 Variance Map prepared by Horn, Tyson & Yoder, Inc. dated 9/7/04 and revised 9/10/21.
- A-3 Architectural Plans prepared by Jay Madden, AIA and dates 9/23/21.
- A-4 Color Photo.
- A-5 Color Photo.
- A-6 Color Photo.
- B-1 The review letter from Owen, Little & Associates, Inc., under signature of Frank J. Little, Jr., dated November 17, 2021.

WHEREAS, James D. Brzozowski, P.E., P.P who was sworn and qualified as an expert

in professional engineering and professional planning and testified as follows:

1. The unique shape of the property creates a hardship.
2. All the adjacent property is fully developed and no land is available to remove the need for variance relief.
3. The following pre-existing non-conformities exist and are not being intensified:
 - a. Front yard setback of 8.2 feet where 20 ft. is required.
 - b. Front yard to deck is 13.7 feet where 15 feet is required.
 - c. Side yard setback of 7.4 feet where 10 feet is required.
 - d. Rear yard setback of 3.5 feet where 10 feet is required.
 - e. Distance from MHWL of 3.5 feet where 15 feet is required.
4. The shed to remain at a setback of 7.4 feet which is pre-existing.
5. Subsurface drainage to be installed with appropriate gutters and leaders.
6. Mr. Brzozowski offered the following opinions:
 - a. The variances can be granted without detriment to the zone plan or ordinances of the Borough of Harvey Cedars.
 - b. There is no detriment to open air and light of adjacent properties.
 - c. There is no detriment to the public good.
 - d. The proposed improvements are an aesthetic improvement and preserve a unique property.

WHEREAS, Jay Madden, AIA who was sworn and qualified as an expert in professional engineering and professional planning and testified as follows:

1. The proposed improvements will be an aesthetic improvement and preserve a unique dwelling.

2. The entire exterior of the structure will be renovated and upgraded.
3. The existing shed is an integral part of the design and will remain in its existing location.

The public was given an opportunity to testify and several interested parties spoke in favor of the Application.

WHEREAS, the Land Use Board after considering the Application, documentation entered in evidence and testimony of the witnesses has made the following factual findings:

1. All jurisdictional requirements have been met.
2. The Applicant is owner of the property and has standing to make this application.
3. The property is in the RA Single Family Residential District.
4. The Board adopts the contents of the November 17, 2021 letter from Frank J. Little, Jr. entered in evidence as Exhibit B-1, as if set forth herein at length.
5. The Board finds that the requested variances can be granted without substantial detriment to the public good and without impairing the intent and purpose of the zone plan and zoning ordinances of the Borough of Harvey Cedars. The benefits of granting the relief outweigh any detriment.
8. Specifically, the Board finds that the proposed improvements do not impair open air and light and are an aesthetic improvement of the structure.
9. The Board further finds the preservation of the unique dwelling is a public benefit.
10. The Board finds that improvements in aesthetics, updating of the exterior of the property, and preservation of a unique property are benefits which outweigh any detriment.
11. The existing non-conformities are not being increased.

NOW, THEREFORE, BE IT RESOLVED by the Land Use Review Board of the Borough of Harvey Cedars that the relief requested by the applicants, Mary Allen Vatalero and Michael Budd for variances for proposed improvements to property identified as Lots 19 & 19.01, Block 62 in the Borough of Harvey Cedars, County of Ocean and State of New Jersey is hereby granted.

BE IT FURTHER RESOLVED that this approval is subject to and conditioned to

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 November 17, 2021, as entered into evidence as Exhibit B-1.

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, 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.

BE IT FURTHER RESOLVED that this approval is subject to and conditioned upon the veracity and reliance by the Board on the testimony offered at the hearing by applicant.

BE IT FURTHER RESOLVED that this approval is subject to and conditioned upon Applicants' 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 virtual public hearing conducted on November 18, 2021 when this matter was considered.

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

Christine Lisiewski, SECRETARY

CERTIFICATION

I, Christine Lisiewski, the Secretary of the Land Use Review 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 virtual public meeting held on November 18, 2021 and memorialized on December 16, 2021.

Christine Lisiewski, Secretary