

**RESOLUTION OF MEMORIALIZATION OF THE
LAND USE BOARD OF THE BOROUGH OF HARVEY CEDARS
COUNTY OF OCEAN AND STATE OF NEW JERSEY
DOCKET NO. 2017:08V**

WHEREAS, Sean Murphy and Laura Murphy have made application to the Land Use Board of the Borough of Harvey Cedars for variances to permit the construction of a new two story elevated single family home at their property located in the R-A Single Family Residential Zone located at 5B West Burlington Avenue, Lot 2 Block 12, in the Borough of Harvey Cedars, County of Ocean and State of New Jersey, the net lot area is 4,752 square feet with a floor area ratio 56.5% and building coverage of 37.7%; and

WHEREAS, the Land Use Board considered this application at a public hearing on October 19, 2017. The applicant was represented by James S. Raban, Esq. The application dated September 28, 2017 was entered into evidence as Exhibit A-1; the plan prepared by Horn, Tyson & Yoder, Inc., titled "Variance Map Lot 2, Block 12 Tax Map Sheet # 3 Borough of Harvey Cedars, Ocean County, New Jersey" dated May 18, 2017 with a final revision date of September 27, 2017 under signatures and seals of James D. Brzozowski, P.E., P.P. and Hayes A. Hewitt, P.L.S. was entered into evidence as Exhibit A-2; architectural plans prepared by Craig W. Brearley AIA titled "Murphy Residence Lot: 2 Block: 12 Borough of Harvey Cedars, Ocean County, New Jersey" dated September 27, 2017, containing four (4) sheets, signed and sealed by Craig W. Brearley, AIA, was entered into evidence as Exhibit A-3; a series of four (4) photographs of the property showing the prior house and lane dated May 18, 2017 was entered into evidence as Exhibit A-4; a series of four (4) photographs of the property showing the current conditions, a filled and graded vacant lot, was entered into evidence as Exhibit A-5. The review letter of Owen, Little and Associates, Inc. dated October 16, 2017, was entered into evidence as Exhibit B-1. Testimony was offered by James D. Brzozowski, PE, PP applicant's engineer and planner; Craig W. Brearley, applicant's architect; and by Sean Murphy and Laura Murphy, the applicants. Public comment was offered by Roy Zaloom, the owner of 5A W. Burlington Avenue, Lot 10 Block 12, Harvey Cedars, New Jersey, the adjacent property to the north, serviced by the easement traversing applicant's property: and

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

1. All jurisdictional requirements have been met.
2. The applicants are the owners of the property. The property is located in the R-A Single Family Residential Zone. The property consists of a lot with dimensions of 60.30 feet x 90.00 feet, containing a gross area of 5,427 square feet. The lot is encumbered with an easement from Burlington Avenue providing access to Lot 10 Block 12, a bay front property. The easement is 15 feet wide, with 7.5 feet encumbering applicants' property; and 7.5 feet encumbering Lot 9 Block 12. The net area of applicants' property is 4,752 square feet.
3. Applicant's property was improved with a raised ranch one story single family home; the building coverage was 43.3% of the net area and that house also maintained a nonconforming front yard setback of 14.6 feet. Applicant has recently demolished the existing house on the property, filled the property in accordance with Borough Ordinances, and constructed retaining walls along the perimeter of the lot.
4. Applicants propose to construct a new two story elevated house upon the property, the grade level will be enclosed with garage and storage area. The new house will comply with all setback and building height requirements of the zone.
5. Upon submission for permitting, applicants were informed that the easement area could not be included for calculations of lot area and floor area ratio. Utilizing the gross area of the lot the floor area ratio is calculated at 49.4% and the building coverage is 32.9%.; and the lot area exceeds the minimum area requirement of 5,000 square feet. Eliminating the area encumbered by the easement reflects a lot area of 4,752 square feet; building coverage of 37.7% and floor area ration of 56.5%, variances are being requested.
6. The Board finds that there is not any vacant land available for applicants to acquire to bring the property into conformity.

7. The proposed use is permitted; the house as designed will not impair or impede the light, air or open space of adjoining properties; and the building coverage is being reduced from the coverage of the prior house on the property, and the front yard setback will conform to the ordinance. The proposed house is smaller in dimensions than the prior house at the property.
8. The new house will be aesthetically pleasing, and will meet all current building, fire and safety codes; and will adhere to all FEMA requirements.
9. The concerns by the neighbor reference the retaining wall which is not before the Board; and is required to contain the fill on applicant's property, as mandated by Borough Ordinances; and

WHEREAS, the Land Use Board of the Borough of Harvey Cedars has determined that the relief requested by the applicants, Sean Murphy and Laura Murphy for variances to permit the construction of a new two story elevated single family home at their property located in the R-A Single Family Residential Zone located at 5B West Burlington Avenue, Lot 2 Block 12, in the Borough of Harvey Cedars, County of Ocean and State of New Jersey, the net lot area is 4,752 square feet with a floor area ratio 56.5% and building coverage of 37.7% 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, as the new home will be suited for the site. The new house is aesthetically pleasing and comports to the design of the neighborhood. The new construction will comply with all current building codes and FEMA requirements. There will not be any impediment to the light air or open space of adjoining properties; the property is encumbered by an easement that services only one property and there will not be any negative impact as a result of the proposed development. This oversized lot is impacted as a result of an easement servicing one home. Based upon the foregoing, applicant has demonstrated the criteria for a Hardship Variance pursuant to NJSA 40:55D-70 (c) 2.

NOW, THEREFORE, BE IT RESOLVED by the Land Use Board of the Borough of Harvey Cedars that the application of Sean Murphy and Laura Murphy for

variances to permit the construction of a new two story elevated single family home at their property located in the R-A Single Family Residential Zone located at 5B West Burlington Avenue, Lot 2 Block 12, in the Borough of Harvey Cedars, County of Ocean and State of New Jersey, the net lot area is 4,752 square feet with a floor area ratio 56.5% and building coverage of 37.7%; 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 16, 2017, and 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 proposed FEMA requirements, as set forth in the Advisory Maps, if the final Maps have not been adopted at the time of construction; 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 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 made by applicants and their witnesses and as placed on the record at the public hearing conducted on October 19, 2017 when this matter was considered.

BE IT FURTHER RESOLVED that this approval is subject to and conditioned upon Applicant complying with all technical revisions and any other requirements as set by the Borough Engineer.

BE IT FURTHER RESOLVED that applicant is granted variances for lot area of 4,752 square feet, building coverage not to exceed 37.7% and floor area ratio not to exceed 56.5%.

BE IT FURTHER RESOLVED that this approval is subject to and conditioned upon Applicants' compliance with the Ordinances of the Borough of Harvey Cedars, as applicable, with respect to bonding, guarantees, inspection costs and payment of such fees as may be related thereto, including escrow fees as to this application and as may be required by the Board Engineer/Planner and/or Construction Official and/or Secretary to the Board and/or Clerk of the Borough. Any guarantees shall be subject to the written review and approval of the Board Engineer/Planner, the Borough Attorney's office and the Mayor and Council.



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 November 16, 2017.

A handwritten signature in blue ink that reads "Mary Pat Brearley". The signature is written in a cursive style and is positioned above a horizontal line.

MARY PAT BREARLEY, SECRETARY