

**RESOLUTION OF MEMORIALIZATION OF THE LAND USE
BOARD OF THE BOROUGH OF HARVEY CEDARS COUNTY OF
OCEAN AND STATE OF NEW JERSEY
DOCKET NO. 2019-03**

WHEREAS, Thomas Polise and Helen J. Polise have made application to the Land Use Board of the Borough of Harvey Cedars for variances to permit the installation of a hot tub within the front yard setback at property known and designated as Lots 1. And 1.01 Block 2, 9A Bergen Avenue in the Borough of Harvey Cedars, County of Ocean and State of New Jersey, maintaining a setback of 1.1 feet; and

WHEREAS, the Land Use Board considered this application at a public hearing on February 21, 2019. The applicants appeared Pro Se. The application dated January 18, 2019 was entered into evidence as Exhibit A-1; the plan prepared by Horn, Tyson & Yoder, Inc. titled “ Building Permit Plot Plan Lot 1, Block 2, Tax Map Sheet #2, Borough of Harvey Cedars, Ocean County, New Jersey” dated October 11, 2011 with a final revision date of January 17 2019 “proposed hot tub”, under signatures and seals of James D. Brzozowski, PE, PP and Robert G. deBlois, PLS was entered into evidence as Exhibit A-2; a document containing a reduced version of the property survey and three (3) photographs of the property, with the locations noted on the reduced survey, was entered into evidence as Exhibit A-3; a letter from the applicants dated January 18 2019 addressed to the Harvey Cedars Building Department was entered into evidence as Exhibit A-4. The review letter from Owen, Little & Associates, Inc., under signature of Frank J. Little, Jr. P.E., P.P., and C.M.E., dated February 19, 2019 was entered into evidence as Exhibit B-1. Testimony was offered by Thomas Polise and Helen Polise, the applicants. There was not any public comment offered; and

WHEREAS, the Land Use Board after considering the Application, documentation entered into evidence, testimony of the witnesses and public comment 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; and consists of an irregularly shaped lot located on the northerly side at the

bay front terminus of Bergen Avenue. The lot is improved with a two story single family home.

3. Applicants are requesting variance relief to locate a hot tub in the front yard of the property adjacent to an unpaved portion of Bergen Avenue. The proposed set back from the property line is 1.1 feet which does not conform to the 20 foot front yard setback requirement.
4. The proposed location is within a landscaped location, and not visible from the street. There are not any surrounding properties that will be affected by the use and noise, if any, generated from the hot tub use.
5. Applicant testified that there are not any other suitable locations upon the property for the placement of the hot tub. The bay front of the house is not bulk headed; applicants would prefer not to place the hot tub in that area, as an infringement upon their views; and their concern for damage upon tide changes and flooding.
6. There is adequate privacy at the proposed location, for the applicants and also from the general public.
7. The proposed location will not have any impact upon the parking on the property; nor will it have any impact upon other properties, or residents, and

WHEREAS, the Land Use Board of the Borough of Harvey Cedars has determined that the relief requested by the applicants Thomas Polise and Helen J. Polise have made application to the Land Use Board of the Borough of Harvey Cedars for variances to permit the installation of a hot tub within the front yard setback at property known and designated as Lots 1. And 1.01 Block 2, 9A Bergen Avenue in the Borough of Harvey Cedars, County of Ocean and State of New Jersey, maintaining a setback of 1.1 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; and applicant has demonstrated sufficient criteria for a hardship under NJSA 40:55D-70 (c) 2 as there will not be any impact upon other properties or residents as a result of the installation and use of the hot tub as and where proposed; the area is

beyond the paved portion of the street; it is a landscaped area offering privacy to applicant and from the general public; and there is not any developed surrounding property which could deleteriously be affected by this matter. There will not be any negative impact upon the light and air of adjoining properties; and

NOW, THEREFORE, BE IT RESOLVED by the Land Use Board of the Borough of Harvey Cedars that the application of Thomas Polise and Helen J. Polise have made application to the Land Use Board of the Borough of Harvey Cedars for variances to permit the installation of a hot tub within the front yard setback at property known and designated as Lots 1. And 1.01 Block 2, 9A Bergen Avenue in the Borough of Harvey Cedars, County of Ocean and State of New Jersey, maintaining a setback of 1.1 feet in accordance with the plan entered into evidence as Exhibit A-2, 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 19, 2019, 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. Applicants shall bring the building into FEMA compliance.


BE IT FURTHER RESOLVED that this approval is subject to all conditions as contained herein and as placed on the record at the public hearing conducted on February 21, 2019.

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.

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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 March 21, 2019.

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MARY PAT BREARLEY, SECRETARY