

**RESOLUTION OF MEMORIALIZATION OF THE  
LAND USE BOARD OF THE BOROUGH OF HARVEY CEDARS  
COUNTY OF OCEAN AND STATE OF NEW JERSEY  
DOCKET NO. 2019:08**

**WHEREAS**, Pauline K. Herman Revocable Living Trust, Pauline K. Herman, Trustee has made application to the Land Use Board of the Borough of Harvey Cedars for variances to demolish the existing single family dwelling on the property and construct a new two (2) story raised single family home upon the property known and designated as Lot 9 Block 80; 14 East 81<sup>st</sup> Street in the Borough of Harvey Cedars, County of Ocean and State of New Jersey; and

**WHEREAS**, the Land Use Review Board considered argument of counsel at the September 19, 2019 public hearing to determine whether or not the Board is vested with jurisdiction to consider the application. The applicant was represented by James S. Raban, Esq.; the application dated August 29, 2019 was entered into evidence as Exhibit A-1; the plan prepared by Horn, Tyson & Yoder, Inc. entitled “Variance Map: Lot 9 Block 80 Tax Map Sheet # 7 Borough of Harvey Cedars, Ocean County, New Jersey” dated May 23, 2019 with a revision date of August 7, 2019 under signatures and seals of Robert G. de Blois, P.L.S. and James D. Brzozowski, PE and PP was entered into evidence as Exhibit A-2; architectural drawings entitled “Herman Residence 14 E. 81<sup>st</sup> Street, Block 80 Lot 9, Harvey Cedars, Ocean County, NJ 08008”, dated February 8, 2019, consisting of Sheets A-1, A-2, A-3, A-4 and A-5 was entered into evidence as Exhibit A-3. The September 11, 2019 letter from Owen, Little and Associates, Inc. under signature of Frank J. Little, Jr., PE, PP, CME was entered into evidence as Exhibit B-1; and

**WHEREAS**, the Land Use Review Board after considering the Application, documentation entered into evidence, argument of counsel and public comment has made the following factual findings:

1. All notice and publication requirements have been met.
2. The property is owned by the applicant.

3. The property consists of a lot with dimensions of 300' x 100 feet located on the oceanfront at East 81<sup>th</sup> Street improved with a single family dwelling.
4. The property is traversed by the Oceanfront Building line, which postdates the property, having been established in 1965. According the plans submitted and the September 11, 2019 letter from the Board Engineer, Frank J. Little, Jr., there as just over 2,000 square feet of area on the site that is not encumbered by the Oceanfront Building Line.
5. Applicant proposes to construct a new home upon the property eastward of the Oceanfront Building Line.
6. The plans provide for a building height of 35.9 where 31 feet is permitted; and a nonconforming off set, side yard setback of 7.6 feet.
7. Harvey Cedars Ordinance Section10-2.2(b) found in Chapter 10 Waterfront Regulations states: *10-2.2 Construction in Beach Dune Area.*

*a. No construction of any sort shall be allowed in the foreshore or backshore area thereof excepting protective works undertaken by the borough, with the approval of the Bureau of Navigation of the State of New Jersey and/or the U.S. Army Corps of Engineers, as applicable.*

*b. No construction of any sort shall be allowed in the remainder of the beach-dune area except the following:*

*1. Any use mentioned in paragraph (a) above.*

*2. Boardwalks, steps and walkways to permit access across the dunes or berms to the open beach, without damage to the dunes themselves.*

*i. (a) Elevated boardwalk structures as defined above are subject to NJDEP design as on file at the Borough Hall.*

*(b) At-grade dune walkovers or paths to the open beach consisting of a natural sand base shall be designated as follows:*

- Walkover shall be fenced on both sides*
- Path width should be no more than 4' wide*
- Fence posts should be spaced 8-10 feet apart*
- Maximum post height of 24" connected either by rope or round*

*rail no more than 18” at its apex*

- *Only one walkover per property allowed*

*(Ord. No. 2014-08 § 1)*

*3. Sand fences to encourage the accumulation of sand. Sand fences along the ocean front may only be placed by private property owners beginning not more than five (5) feet east of the building line or the structure, whichever is most eastward, and must be placed in a zigzag pattern as per the Army Corps of Engineers design:*

*(Ord. No. 2010-16 § 1): and*

**WHEREAS**, the Land Use Board of the Borough of Harvey Cedars has determined that it is without jurisdiction to entertain an application for construction upon property located eastward of the Ocean Front Building Line; as the relief requested by applicant is specifically prohibited by Ordinances adopted for Waterfront Regulations; not zoning, planning or land development.

**NOW, THEREFORE, BE IT RESOLVED** by the Land Use Board of the Borough of Harvey Cedars that it does not have subject matter jurisdiction to consider the application of Pauline K. Herman Revocable Living Trust, Pauline K. Herman, Trustee to permit construction of a new single family home eastwardly of the Ocean Front Building Line at Lot 9 Block 80; 14 East 81<sup>st</sup> Street in the Borough of Harvey Cedars, County of Ocean and State of New Jersey.

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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 October 17, 2019.

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**MARY PAT BREARLEY, SECRETARY**