

BULK ZONING VARIANCE  
ANGELA CHERNITSKY  
49 West Anchor Drive  
Block 311, Lot 30  
R-50 Residential Zone

Application No. 2024-01

**RESOLUTION OF APPROVAL #2024-07  
ZONING BOARD OF ADJUSTMENT, TOWNSHIP OF LITTLE EGG HARBOR**

**WHEREAS**, an application has been made by Angela Chernitsky for bulk variance relief for property located at 49 West Anchor Drive, known and designated as Block 311, Lot 30 on the Little Egg Harbor Tax Map; and

**WHEREAS**, a public hearing on the application was held on April 10, 2024; and

**WHEREAS**, the Planning Board, after carefully considering the evidence presented by the applicant, and the report(s) from its professional staff, hereby makes the following findings of fact:

1. The applicant has a proprietary interest in the subject property.
2. The applicant has requested approval in accordance with the Ordinances of the Township of Little Egg Harbor.
3. All record property owners located within 200 feet of the subject property were duly notified of the public hearing, and the notice summarizing the application was duly published in an official periodical of the Board in accordance with the provisions of the Municipal Land Use Law.
4. The site in question is located at 49 West Anchor Drive, in the R-50 Residential Zone.
5. The applicant is seeking bulk variance relief to permit a hot tub located in the rear of the subject property.

*The following variances are requested:*

Rear yard setback      20ft required; 7.5ft proposed

6. James Oris, PP, PE, CME, Remington & Vernick Engineers, the Board's engineer, prepared a report to the Board dated February 28, 2024. The Board hereby adopts the findings in the reports of its professionals and incorporates the same herein by reference.

7. The applicant, Angela Chernitsky, testified that the subject hot tub (swim tub) was purchased and delivered to her back yard while the permits were still pending before the zoning and construction officers. The existing house and rear elevated porch on piling severely limit the space available for a hot tub, and the subject hot tub that was purchased cannot be located in a conforming location. There is no storm flooding issue for the properties in the vicinity of the subject property. The rear setback variance request is consistent with neighboring properties and the character of the neighborhood.

The testimony elicited supported the applicant's contention that the proposed hot tub location is in keeping with the area and neighborhood and that the granting of the application would in no way be detrimental to the public good.

The Little Egg Harbor Township Zoning Board of Adjustment concurs with these representations and so finds.

**WHEREAS**, the Zoning Board of Adjustment has determined that the applicant should be granted the requested relief for the following reasons:

1. The proposed hot tub location will pose no danger to the surrounding area.
2. The granting of the application will not have a substantial detriment to the public good and will not substantially impair the intent and purpose of the Zone Plan, Master Plan, and/or Zoning Ordinances of the Township of Little Egg Harbor.
3. The positive criteria outweigh the negative, if any.
4. There were no objectors present at the hearing.
5. The safety and well being of the immediate area will not be adversely affected by the proposed variance relief.
6. The application is in substantial compliance with the Zone Plan or Master Plan, and will not unduly impact upon the neighborhood scheme.

**NOW, THEREFORE, BE IT RESOLVED** by the Little Egg Harbor Township Zoning Board of Adjustment that the application as set forth in the preamble of this Resolution be and is hereby approved subject to the following *specific conditions*:

1. These specific conditions noted herein are an integral part of the basis for which the approval is being granted and are intended to be inseparable from the right of enjoyment of this approval.

2. The applicant shall comply with all conditions as contained in the aforementioned report of the Board Engineer.
3. The applicant shall revise the plans to include the technical changes as set forth in section E of the Board Engineer's aforementioned report.
4. The applicant must submit a new up to date as-built survey reflecting all improvements and the subject hot tub location on the same.
5. No other variances or design waivers have been requested, and no other variances or design waivers have been granted or are implied.

In addition, the following *general conditions* shall apply:

1. The applicant must submit proof of payment of all currently due taxes to the Little Egg Harbor Township Zoning Board of Adjustment.
2. The applicant must post any and all bonds and guaranties as required and recommended by this Board and the Board Engineer. Moreover, the Applicant must post any and all required engineering inspection fees.
3. All representations and statements made by the Applicant, as well as Applicant's representatives and witnesses, shall be considered and deemed to be relied upon by the Board in rendering this decision and to be an expressed condition of this Board's actions in approving the subject application. Any misstatement or misrepresentation, whether by mistake or change in circumstance, shall be deemed a breach of this condition of approval and shall subject this application to further review of this Board's own motion.
4. In the event the Board determines that it reasonably relied upon any misstatement or misrepresentation, then and in that case any approvals previously given may be rescinded and any improvements in place on the premises in question shall not be considered as being in compliance with the ordinances of the Township of Little Egg Harbor.
5. The applicant must comply with all conditions as contained in the aforementioned reports of the Board professionals.
6. The applicant must obtain reports with signed certifications from the Township of Little Egg Harbor Zoning Board Engineer, Zoning Officer, and Building Department certifying compliance with all conditions of the Resolution.
7. No building permit will be issued until all escrow accounts have sufficient monies to pay all outstanding Board professional fees. In the event a building permit is issued and there are outstanding escrow monies due for Board professional fees, a stop-work order will be filed against the applicant/contractor until such escrow fees have been confirmed by the Board Secretary as paid in full.
8. In the event there is an existing violation, the applicant shall have thirty (30) days from the date of the Notice of Decision was published to correct the violation. Failure to

correct the existing violation within the time proscribed will result in the issuance of a summons.

9. The applicant shall comply with all regulations and obtain all necessary permits required by outside agencies, including local, state and federal.
10. The applicant has agreed to participate in the State recycling program. The program provides credits to the Township of Little Egg Harbor when trees and tree parts are cleared from properties and processed into wood chips (at the site) and then recycled for use as product on-site or off-site. The applicant agrees to file the appropriate forms with Little Egg Harbor Township so that the Township will receive recycling credits pursuant to N.J.A.C. 7:26A-1.4.
11. In accordance with NJSA 40:55D-46.1, approval of a minor site plan shall be protected for a two-year period; an extension on such approval may be granted by the Board not exceeding an additional one year. In accordance with NJSA 40:55D-47, approval of a minor subdivision shall expire 190 days from the date of this resolution unless a plat or subdivision deed is endorsed by the Board Chair and filed with the County Clerk within said 190-day period; an extension of said 190-day period may be granted by the Board not exceeding an additional one year. Minor subdivision approval shall thereafter be protected for a two-year period; an extension on such approval may be granted by the Board not exceeding an additional one year. In accordance with NJSA 40:55D-49, preliminary approval of a major subdivision or site plan shall be protected for a three-year period; extensions on such preliminary approval may be granted by the Board for an additional one year not exceeding a total extension of two years. In accordance with NJSA 40:55D-52, final approval of a major subdivision or site plan shall be protected for a two-year period; extensions on such final approval may be granted by the Board for an additional one year not exceeding a total extension of three years. All other approvals will expire one year after the date of resolution approval if a building permit is required or, if a building permit is not required, a certificate of occupancy has not been obtained; thereafter the applicant may apply to the Board for an extension if the conditions and ordinances existing at the time of approval have not changed.

**BE IT FURTHER RESOLVED** the applicant's request for approval, pursuant to the terms and conditions as set forth more fully in the preamble of this Resolution, be and hereby are approved.

**BE IT FURTHER RESOLVED** that a copy of this Resolution be forwarded to the applicant, the Building Department, and the Township Clerk by the Planning Board secretary.

**BE IT FURTHER RESOLVED** that a notification of this favorable Resolution shall be published in an official newspaper of the Little Egg Harbor Township within ten (10) days of the adoption of this resolution.



Eugene F. Sullivan, Chairman

CERTIFICATION

I, Robin Schilling, Secretary of the Little Egg Harbor Township Zoning Board of Adjustment, certify that the foregoing Resolution was duly adopted at a meeting held on May 8, 2024, memorializing the vote of the Little Egg Harbor Township Zoning Board at a meeting previously held on April 10, 2024, a quorum being present and voting in the majority.

  
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Robin Schilling, Board Secretary