

RESOLUTION
OF THE
LAND USE BOARD OF THE BOROUGH OF NEPTUNE CITY
GRANTING MINOR SUBDIVISION APPROVAL

APPLICANT: KEVIN FITZSIMMONS
BLOCK 16 and LOTS 1 and 4
APPLICATION # 18-01

WHEREAS, Kevin Fitzsimmons (hereinafter referred to as “applicant”) is the owner Block 16, Lots 1 and 4 on the Tax Map of Neptune City, in the State of New Jersey, County of Monmouth (hereinafter referred to as (“premises”)); and

WHEREAS, the premises is located in a R-1 Zone; and

WHEREAS, the applicant has applied to the Land Use Board of the Borough of Neptune City to modify the lot line between the two properties and construct a new single family home on new proposed Lot 1.01. As a result of the application, the applicant requires the following relief:

1. Variance from lot area requirements, which requires a minimum lot area of 7,500 square feet, where proposed lot 1.01 will be 6,500 square feet and proposed lot 4.01 will be 6,280 square feet. (Existing condition Lot 1 5,100 square feet and Lot 4 7,680 square feet).
2. Variance from lot frontage requirements, which requires a minimum lot frontage of 75 feet, where proposed lot 1.01 will be 65 feet and proposed lot 4.01 will be 62.80 feet. (Existing condition Lot 1 32.66 feet and Lot 4 95.14 feet).

3. Variance from front yard setback, which requires 25 feet, where proposed lot 4.01 has a setback of 20 feet. (Existing condition Lot 4 setback is 20 feet).
4. Variance from side yard setback for accessory building, which requires 5 feet, where proposed lot 1.01 has a setback of 1.3 feet. (Existing condition Lot 1 setback is 1.3 feet).
5. Variance from rear yard setback for accessory building, which requires a minimum setback of 5 feet, where proposed lot 1.01 will have a setback of 4.5 feet and proposed lot 4.01 will have a setback of 1.2 feet. (Existing condition Lot 1 4.5 feet and Lot 4 1.2 feet).

WHEREAS, after review and notice of publication indicates that the Board has jurisdiction in reviewing this application; and

WHEREAS, the public hearing was held on June 12, 2018; and

WHEREAS, the applicant has produced the sworn testimony of Kevin Fitzsimmons and the following exhibits were submitted with the application, reviewed by the Board, and shall be considered marked as in evidence as follows:

A-1	Application
A-2	Survey with existing conditions prepared by Charles Surmonte PE & PLS dated 3-28-2018.
A-3	Minor Subdivision Plan prepared by Charles Surmonte PE & PLS dated 4-28-2018.

WHEREAS, the Board has reviewed testimony of its professionals and marked into evidence the following exhibit:

LUB-1 Leon S. Avakian Inc. report dated June 5, 2018.

WHEREAS, no member of the public appeared on this application; and

WHEREAS, the Land Use Board of the Borough of Neptune City, have to consider all evidence, exhibits and testimony presented and make the following findings of fact and conclusions of law:

1. The Board has jurisdiction to hear and decide this application.
2. The taxes on said premises are paid and current.
3. The said premises are located in the R-1 Zone as established by the Land Use Ordinance of the Borough of Neptune City.
4. The Board finds that the applicant has satisfied its burden of proof pursuant to N.J.S.A. 40:55D-1 et seq., upon the meeting of certain conditions.
5. The applicant has requested the following variances:
 - a. Variance from lot area requirements, which requires a minimum lot area of 7,500 square feet, where proposed lot 1.01 will be 6,500 square feet and proposed lot 4.01 will be 6,280 square feet. (Existing condition Lot 1 5,100 square feet and Lot 4 7,680 square feet).
 - b. Variance from lot frontage requirements, which requires a minimum lot frontage of 75 feet, where proposed lot 1.01 will be 65 feet and proposed lot 4.01 will be 62.80 feet. (Existing condition Lot 1 32.66 feet and Lot 4 95.14 feet).
 - c. Variance from front yard setback, which requires 25 feet, where proposed lot 4.01 has a setback of 20 feet. (Existing condition Lot 4 setback is 20 feet).

- d. Variance from side yard setback for accessory building, which requires 5 feet, where proposed lot 1.01 has a setback of 1.3 feet. (Existing condition Lot 1 setback is 1.3 feet).
- e. Variance from rear yard setback for accessory building, which requires a minimum setback of 5 feet, where proposed lot 1.01 will have a setback of 4.5 feet and proposed lot 4.01 will have a setback of 1.2 feet. (Existing condition Lot 1 4.5 feet and Lot 4 1.2 feet).
- f. Variance front yard setback for building on proposed lot 1.01, where 25 feet is required and only 19 feet is proposed from Seaboard Way.

The Land Use Board finds that the proposed site plan enhances the site, environmentally, commercially and aesthetically. As a result of the proposed plan, the following purposes of the Municipal Land Use Law are promoted:

- a. To provide sufficient space in appropriate locations for a variety of agricultural, residential, recreational, commercial and industrial uses and open space, both public and private, according to their respective environmental requirements in order to meet the needs of all New Jersey Citizens.
- b. To ensure that the development of individual municipalities do not conflict with development and general welfare of neighboring municipalities, the county and state.

The subject property is two existing lots. Lot 4 is an interior lot with 95.14 feet of frontage on Holly Avenue that has a single family home and detached garage. The property has a unique shape. The West property line is not perpendicular to Holly Avenue, but is angled and cuts through the adjacent lot 1. Lot 4 is presently 7,680 square feet.

Lot 1 is the corner lot with 100 feet of frontage on Seaboard Way and only 32.66 feet on Holly Avenue. Lot 1 has an existing garage on the property that faces Seaboard Way. Lot 1 is undersized and is only 5,100 square feet. The lots do not merge, since both lots front on different streets.

The applicant is proposing to straighten out the angled lot line between the properties and create a perpendicular lot line, which will increase the lot area of proposed lot 1.01 to 6,500 square feet and reduce proposed Lot 4.01 to 6,280 square feet. The lot line modification will also increase the frontage on Holly Avenue for proposed Lot 1.01 to 65 feet and reduce proposed lot 4.01 frontage to 62.80 feet.

With this modification, the applicant proposes to build a new single family home on proposed lot 1.01. The new home will have a setback of 19 feet from Seaboard Way on proposed lot 1.01. The lot line modification will make proposed lot 1.01 more conforming than existing.

The only variances, other than the front yard setback variance on proposed lot 1.01, are the lot area variance and lot frontage variance on proposed lot 4.01, since it is being made smaller. The lot area and lot frontage variances on proposed lot 1.10 are being decreased due to the additional area.

The Board finds that the lot line modification is a benefit to the area, as it makes an undersized lot more consistent with the surrounding properties. The reduction of the size of Lot

4, still makes the lot consistent with the surrounding properties. Moreover, the new home, which will be built without bulk variances on an undersized lot, will be a benefit to the neighborhood.

The existing variances for front yard setback of the building on lot 4 and the accessory setback variances on both lots are existing and not being exacerbated by this application.

Additional, the Board finds no negative effect for the lot line modification.

Based on these facts, the Board hereby grants the lot line modification (Minor Subdivision) with the conditions contained in this resolution.

With respect to all of the requested variances, the Board finds that the applicant has met his burden with respect to the variances requested because they relate to this specific property, the purposes of the Municipal Land Use Law would be advanced by the deviation from the zone requirements, the deviations can be granted without substantial detriment to the public good, the benefits of the deviations substantially outweigh any detriment; and the granting of the variances will not substantially impair the intent and purpose of the planning and zoning ordinances.

NOW, THEREFORE, BE IT RESOLVED that this Resolution serves as a memorialization of the Board's decision to grant Minor Subdivision Approval with Bulk Variances on June 12, 2018, subject to the conditions as follows:

1. The Applicant shall obtain all state, county and local government approvals as required by law.
2. The Applicant shall pay all professional fees, including attorney, engineering and planning fees, incurred by the Land Use Board of the Borough of Neptune City in connection with the applicant and no further improvements shall be granted by the Land Use Board and no permits, including building permits and certificates of occupancy shall be issued to the applicant until such payment is made.

3. This approval is subject to the accuracy and completeness of the submissions, statements, exhibits and other testimony filed with, or offered to, the Board in connection with this application, all of which are incorporated by reference and specifically relied upon by the Board in granting this approval. The condition which shall be deemed satisfied unless and until the Board determines (on Notice to the applicant) that a breach hereof has occurred.
4. No taxes or assessments for local improvements shall be due or delinquent on the subject property.
5. Applicant is not granted any Front Yard Setback Variance for Holly Avenue.
6. Applicant shall revise the plans to show the driveway on Lot 4 and provide a revised lot coverage calculation for Lot 4.
7. Applicant shall confirm that the front porch on proposed lot 1.01 is open and unscreened and is limited to a width of 23 feet and shall be setback at least 20 feet from the property line and must be 3 feet from the adjoining ground level.
8. Applicant shall revise plans to provide proposed utilities for both lots.
9. The Subdivision deed shall be subject to review and approval by the Board Engineer and Board Attorney.
10. Applicant shall pay the \$ 190 tax map revision fee.
11. Plans shall be signed by the owner.
12. Applicant shall provide approval or letter of no interest form Monmouth County Planning Board.
13. Applicant shall add the following General Notes to the Subdivision Plan:

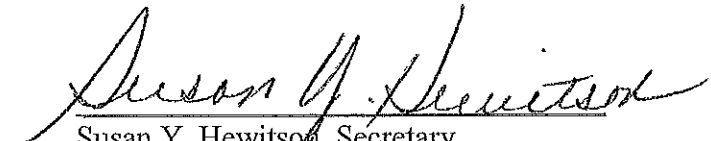
- a. During construction. Developer shall comply with solid waste and public health nuisance codes.
- b. No soil shall be removed from the site without written approval of the construction official.
- c. All broken curb and sidewalk along both frontages shall be replaced where directed by the Borough engineer.

BE IT FURTHER RESOLVED, that the Board Secretary is hereby authorized and directed to send a certified copy of this Resolution to the applicant, the Borough Clerk, Engineer and Assessor and shall make same available to all other interested parties; and that the Board

Secretary and/or the Applicant is hereby authorized and directed to cause a notice of this decision to be published in the official newspaper at the applicant's expense.

CERTIFICATION

I hereby certify that the foregoing is a true copy of the resolution adopted by the Borough of Neptune City Land Use Board at a meeting held on July 10, 2018.


Susan Y. Hewitson, Secretary
Land Use Board of the Borough of Neptune City

The vote on the Motion
To approve this application:

YES: P. Gerand, Robert Reynolds, Randy Reynolds, J. Amoscato, R. Brown, M. Mcguigan, R. Biggs

NO: None

ABSTAIN: None

The Vote on the Resolution of
memorialization was as follows:

YES: P. Gerand, Robert Reynolds,
R. Brown, M. McGuigan

NO: None

ABSTAIN: None