

**RESOLUTION**  
**OF THE**  
**LAND USE BOARD OF THE BOROUGH OF NEPTUNE CITY**  
**GRANTING USE VARIANCE**

**APPLICANT:       JOHN BINKO**  
**BLOCK 3 LOT 18**  
**APPLICATION #20-03**

\*\*\*\*\*

**WHEREAS**, John Binko (hereinafter referred to as “applicant”) is the owner of 916 4<sup>th</sup> Avenue also known as Block 3, Lot 18 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 construct a new fence in the front yard. As a result of the application, the applicant requires the following relief:

1. Variance from Fence Ordinance, which permits a maximum of 3-foot height fence in the front yard, where 6 feet is proposed.

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

**WHEREAS**, a public hearing was held on January 12, 2021; and

**WHEREAS**, the applicant produced the sworn testimony of John Binko 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 with survey.**

**WHEREAS**, the Board has reviewed testimony of its professionals; and

**WHEREAS**, no members 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 Fence Ordinance, which permits a maximum of 3-foot height fence in the front yard, where 6 feet is proposed.

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 a corner lot located at the corner of Fourth Avenue and Steiner Avenue. The property contains an existing 2-story residential dwelling with attached garage. The home is facing 4<sup>th</sup> Avenue and the driveway also facing 4<sup>th</sup> Avenue. The other street frontage, Steiner Avenue, is located to the West of the home. The home is located closer towards the property line along the frontage of 4<sup>th</sup> Avenue, which leaves a substantial area to the West of the home, which fronts Steiner Avenue.

The Board is aware that Steiner Avenue is a major road through Neptune City and the property also abuts a commercial brewery, which is to the South along Steiner Avenue. As a result of the main roadway and the commercial structure to the South, a substantial amount of the property's yard is open to traffic, as well as the commercial use.

The applicant is proposing to install a 6-foot fence that is setback 10-feet from the property line on Steiner Avenue, which will connect to the corner of the garage on 4<sup>th</sup> Avenue. The fence will also connect to the existing fence along Steiner Avenue between the subject property and the commercial property.

Based on the location of the home on the lot, that Steiner Avenue is a major road and that the property is abuts a commercial use, the Board find the property is unique for the grant of a Variance of a 6-foot fence in the front yard, where a 3-foot is permitted.

With respect to the negative criteria, the applicant is going to install the fence 10-feet from the property line, which will reduce any corridor issues created by a fence in the front yard and will be installing street trees between the fence and the property line along Steiner Avenue,

which will mitigate any negative impact of this fence. With these conditions, the Board finds that the application will not have a substantial negative impact to the Master Plan or the adjoining property owners. Further, the Board finds that this will be an improvement to the property and will permit the property owner to have privacy in their rear yard. Based on their findings, the Board finds the applicant has satisfied the positive and negative criteria for this variance, subject to the conditions contained herein.

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 Bulk Variance on January 12, 2021, subject to the conditions as follows:

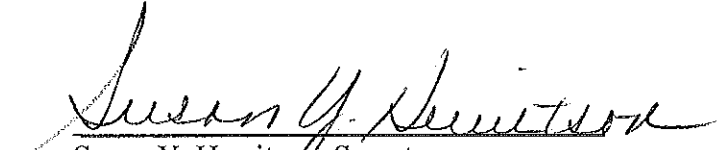
1. The Applicant shall obtain all state, county and local government approvals as required by law.
2. The Applicant shall pay all professional fees, including attorney, engineering and planning fees, incurred by the Land Use Board of the Borough of Neptune City in connection with the applicant and no 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 shall revise the plans to provide the fence to be setback 10-feet from the property line.
6. Applicant shall revise the plans to add street trees between fence and property line along Steiner Avenue. The amount and location of the trees are subject to review and approval by the Board 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 February 9, 2021.

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

The vote on the Motion  
To approve this application:

The Vote on the Resolution of  
memorialization was as follows:

YES:  
Patricia Gerand, Andrew Wardell,  
Glen Kocsis, Robert Reynolds, Jr.,  
Randy Reynolds, Larry Cross  
Craig Morcom, Erin Maciorowski

YES:  
Patricia Gerand, Andrew Wardell  
Glen Kocsis, Robert Reynolds, Jr.,  
Randy Reynolds, Larry Cross,  
Craig Morcom, Erin Maciorowski

NO: None

NO: None

ABSTAIN:

ABSTAIN: Michele McGuigan