

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

APPLICANT: GINA MALLOY
BLOCK 30 LOT 23
APPLICATION #20-01

WHEREAS, Gina Malloy (hereinafter referred to as “applicant”) is the owner of 18 Boston Road, also known as Block 30, Lot 23 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 retain an existing 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. The existing fence is 2 feet in front of a portion of the home.

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 February 9, 2021; and

WHEREAS, the applicant produced the sworn testimony of Gina Malloy 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 and pictures of the home.

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 existing fence is 2 feet in front of a portion of the home.

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 Oak Terrace and Boston Road. The property contains an existing 2-story residential dwelling that fronts on Oak Terrace. The home has a side entrance to the rear of the property, which is through the 6-foot fence. The fence comes forward from the home toward the street, where the gate is, toward Oak Terrace and the runs parallel to Oak Terrace. The fence is approximately 33 feet from the curb line and does not obstruct any views.

Based on the location of the home and the lot and the lot being a corner lot, the Board find the property is unique and the applicant has satisfied the positive criteria

With respect to the negative criteria, the applicant is retaining an existing fence that is 6 foot in height, where a maximum of 3 feet is permitted in the front yard, however the fence is approximately 33 feet from the curb line. The variance is de minimus and does not negatively impact on the adjoining properties or the Master Plan. 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.

One of the objectives of Zoning is to improve properties if it can be done without detriment to the adjoining property owners. In this case, there will be an improvement to the property with no detriment to the adjoining property owners.

The Board further concludes that the variance can be granted under N.J.S.A. 40:55d-70(c) 1. The Zoning Board further concludes that the requested variance can be granted without substantial detriment to the public good and will not impair the intended purpose of the Zoning Ordinance.

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 February 9, 2021, subject to the conditions as follows:

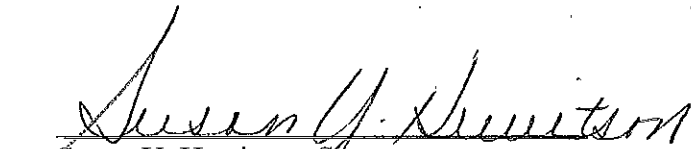
1. The Applicant shall obtain all state, county and local government approvals as required by law.
2. The Applicant shall pay all professional fees, including attorney, engineering and planning fees, incurred by the Land Use Board of the Borough of Neptune City in connection with the applicant and no 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 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.

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 March 9, 2021


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

The vote on the Motion
To approve this application:

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

NEY: None

ABSTAIN: None

The Vote on the Resolution of
memorialization was as follows:

YES: Patricia Gerand, Andrew Wardell, Glen
Kocsis, Randy Reynolds, Michele McGuigan,
Craig Morcom, Erin Maciorowski

NEY: None

ABSTAIN: None