RESOLUTION

OF THE

LAND USE BOARD OF THE BOROUGH OF NEPTUNE CITY

GRANTING BULK VARIANCE

APPLICANT: **JOHN KELLY**
BLOCK 3 LOT 8
APPLICATION #24-04

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WHEREAS, John Kelly (hereinafter referred to as "applicant") is the owner of 932 4th Avenue also known as Block 3, Lot 8 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 10 x 20 ft. inground pool between the home and detailed garage. As a result of the application, the applicant requires the following relief:

1. Variance for location of pool. Pools are not permitted in the front yard. Applicant proposes the pool in front of existing 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 May 21, 2024; and

WHEREAS, the applicant produced the sworn testimony of John Kelly 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 One (1) sheet "Survey of Property" prepared by David J. Von Steenberg, P.L.S., of Morgan Engineering dated January 23, 2024.

A-2 Four (4) pages of Pool Plans by Interpool, dated January 31, 2024.

A-3 Zoning permit application dated February 1, 2024 with a denial date of February 5, 2024.

WHEREAS, the Board also marked Leon S. Avakian Inc.'s report dated April 12, 2024 as LUB-1; and

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 variance:
    A. Variance for location of pool. Pools are not permitted in the front yard. Applicant proposes the pool in front of existing 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 7500 sq. ft. with 50 ft. of frontage on 4th Avenue and a depth of 150 ft. The property presently consists of an existing one-story dwelling with deck, which is located to the rear of the property. The property also contains a detached two-story garage that is located in front of the single-family home, with a setback of approximately 42 ft. from 4th Avenue. To the rear of the two-story garage is a slate patio.

The applicant proposes to construct a 10 x 20 x 6 pool with 18-inch coupling between the existing single-family home and the two-story garage. As a result of the application, the applicant requires a variance for a pool being in the front yard.

With respect to the variance, the Board finds that the property is unique in that the single-family home is located to the rear of the property, rather than the front. As a result of the home being located to the rear of the property, there is no rear yard associated with the subject property. The two-story detached garage is located in the front of the home and setback 42 ft.

from 4th Avenue. The only area to install a pool would be between the two-story garage located in the front yard and in front of the single-family home. As a result, the Board finds the property to be unique. Due to the uniqueness of the property, the Board finds that the applicant has satisfied the positive criteria for variance.

With respect to the negative criteria, the pool will be located behind the existing two-story garage and will not be seen from the front road. As such, the pool will not look like it is in the front yard, since it will be behind the existing two-story garage. The applicant does not require any other variances associated with the installation of the pool.

Due to the location of the pool and it being visually blocked by the existing two-story garage, the Board finds that the applicant has satisfied the negative criteria for the variance. The Board further finds that the variance will not have a substantial detriment to the adjoining property owners, master plan or the zoning ordinances.

As a result of the above, the Board finds that the applicant has satisfied the positive and negative criteria for the variances subject to the conditions contained in this resolution.

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 June 18, 2024, 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 field 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.
4. No taxes or assessments for local improvements shall be due or delinquent on the subject property.
5. The second floor of the garage is prohibited from being a livable space.

6. The pool and equipment shall be, at a minimum, 5 ft. setback from the property line.

7. The applicant shall obtain all necessary construction permits for the pool.

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 June 18, 2024.

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

The vote on the Motion
To approve this application:

YES: Randy Reynolds, Mayor R. McGreevy, Glen Kocsis, Robert Reynolds, Jr., Michele McGuigan, Larry Cross, Donald Smith, Marie Moulder

NO: None

ABSTAIN: None

The Vote on the Resolution of memorialization was as follows:

YES: Randy Reynolds, Mayor R McGreevy, Robert Reynolds, Jr. Glen Kocsis, Michele McGuigan., Larry Cross, Donald Smith

NO: None

ABSTAIN: Patricia Gerand and Craig Morcom