

BOROUGH OF UNION BEACH PLANNING BOARD

RESOLUTION OF MEMORIALIZATION OF THE  
APPROVAL OF THE APPLICATION OF  
BRYAN CUMMINGS FOR A  
FENCE HEIGHT BULK VARIANCE  
900 FOURTH STREET  
BLOCK 36; LOT 1  
APPROVED: MAY 31, 2017  
MEMORIALIZED: JULY 26, 2016

**WHEREAS**, the Applicant, Bryan Cummings (hereinafter referred to as the "Applicant") is the owner of property located at 900 Fourth Street and known as Block 36, Lot 2 1s shown on the Official Tax Map of the Borough of Union Beach; and

**WHEREAS**, the subject property is situated in the R-8 Residential Single Family Zone District and there currently exists a single family residence on the subject property; and

**WHEREAS**, the Applicant is proposing to install a 6 foot high privacy fence 3 feet from the side and rear of his property; and

**WHEREAS**, based on the bulk requirement of the R-8 zone district the Applicant's building permit was denied based on the non conformity of the proposed height of the fence and the side and rear yard setbacks; and

**WHEREAS**, the Applicant applied to the Union Beach Unified Planning Board for variance relief and Applicant appeared and presented testimony on his own behalf at a regular meeting of the Board on May 31, 2017; and

**WHEREAS**, the Applicant presented no new exhibits at the time of the hearing to augment the submission documents submitted as part of the application for consideration of the Board at the time the hearing; and

**WHEREAS**, the Board carefully considered all of the testimony and comments presented to the Board at the public hearing; and

**WHEREAS**, the Board, after hearing the presentation of the Applicant and such witnesses as appeared on his behalf as well as any other persons appearing and desiring to be heard, and after due consideration of the testimony and documents submitted, makes the following findings of fact and conclusions of law:

1. The Applicant has provided notice to all property owners within two hundred feet and has caused notice to be published regarding said application in accordance with N.J.S.A. 40:55D-1 et seq. and the Board has jurisdiction in this matter.

2. The Applicant is the owner of property located at 900 Fourth Street and further known as Block 36, Lot 2 as shown on the Official Tax Map of the Borough of Union Beach.

3. The subject property is situated in the R-8 Residential Single Family Zone District and there currently exists a single family residence on the subject property which was recently purchased by the Applicant.

4. The Applicant wishes to construct a 6 foot privacy fence along the side and the rear of the property located 3 feet from the rear and side property lines.

harm the public good.

10. Based on the aforementioned finding of facts the Board finds that requested variances to construct a 6 foot privacy fence 3 feet from the Applicant's rear yard and side yard can be granted in that the purpose of the Municipal Land Use Law would be advanced by the proposed deviations and that benefits outweigh any detriments and the granting of the variances will not substantially impair the intent and purpose of the Union Beach Master Plan and Zoning Ordinance nor harm the public good.

**NOW, THEREFORE, BE IT RESOLVED** by the Planning Board of the Borough of Union Beach that the application Bryan Cummings for the requested variances be and is hereby granted in accordance with the plans filed herein and the presentation and representations of the Applicant and the Applicant's witnesses and is granted subject to and conditioned upon the following:

**GENERAL CONDITIONS**

1. Applicant shall comply with the Planning Regulations of the Borough of Union Beach to the extent that they are consistent with this resolution and shall comply with all the requirements of the Construction Code and the Fire and Health Code Officials.

2. The Applicant shall procure all state, county and local government approvals required by law.

5. The property is a corner lot and the minimum permitted rear yard setback and side yard setback is 10 feet and the maximum permitted fence height is 3 feet in the R-8 Zone District.

6. The Applicant testified that he has young children and pets and it is his intention to create increased privacy and safety for his children and his pets and the height and the location of the fence are required to help prevent his children and pets from straying off of the property and being injured.

7. The Board acknowledges that the neighbor most affected by the height and the location of the proposed fence is Ms. Joanne Rothermel living at 826 Fourth St. who appeared at the hearing and spoke in favor of the location and height of the fence and the requested variances.

8. Mr. Cummings testified that that the increased fence height and location would not have a negative impact on the neighboring properties and that the improvements would be aesthetically pleasing, would be consistent with the neighborhood and would not have any negative impact on the neighborhood.

9. The Board finds that it is familiar with the subject property and the area and neighborhood in question and that the granting of the requested variances could be done in that the benefits of granting of the requested variances substantially outweigh any detriments and the granting of the variances will not substantially impair the intent and purpose of the Union Beach Master Plan, Zoning Ordinance and Zone Plan nor

3. The Applicant shall pay of all taxes, fees, professional fees, and costs due to the Borough of Union Beach and the posting of all bonds required by law and by ordinance.

4. The Applicant shall obtain all necessary building permits and other construction permits required by any local, county or state law, rule or regulation.

5. The Application is granted only in conjunction with the conditions noted herein and but for the existence of same the application would not be approved.

6. The action of the Planning Board in approving this application shall not relieve the applicant of the responsibility of any damage caused by this project, nor does the Planning Board or its reviewing professionals and agencies accept any responsibility for the structural design of the proposed improvements or for any damage caused by the project.

7. The within resolution merely codifies the conclusions, testimony and findings that are a part of the formal record created at the time of the hearing and is not intended to be all inclusive.

8. All representations made by the Applicant or the Applicant's professionals at the time of the Planning Board Hearing on this matter or in any documents submitted pursuant to this application are considered specific conditions of the approval. Any deviation or misrepresentation therefrom shall be considered a material breach of the facts upon which the

conclusions of the Board were made and shall be considered a violation of this approval.

**BE IT FURTHER RESOLVED**, that nothing stated in the within approval shall be interpreted to excuse compliance by the Applicant with any and all other requirements of the Borough of Union Beach or any other governmental entity, agency or subdivision as set forth in any laws, ordinances, regulations or fee ordinances.

**BE IT FURTHER RESOLVED**, that the Chairman and the Secretary of the Borough of Union Beach Planning Board be and are hereby authorized to sign any all documents necessary to effectuate the purpose of this resolution, provided that the Applicant has complied with all of the above stated conditions.

**BE IT FURTHER RESOLVED**, that a copy of this resolution, certified to be a true copy by the Secretary of the Planning Board be forwarded to the Borough Zoning Officer, Borough Construction Official, Borough Tax Assessor, Borough Tax Collector, and the Applicant within ten (10) days from the date hereof.

**BE IT FURTHER RESOLVED**, that the Board Secretary is hereby authorized and directed to cause a notice of this Resolution to be published in the Asbury Park Press at the Applicant's expense.

Dated:

*July 26, 2017*

Moved By:

*Mr. Lloyd Coffey*

Seconded by: *Mrs Carol Schuetty*

Those in Favor: *Steiner, Coffey, Schutz, Andruzzi,  
Hoadley and Moriz*

I hereby certify that on the \_\_\_\_\_ day of July , 2016 the Unified Planning Board of the Borough of Union Beach adopted the foregoing Resolution by the aforementioned vote which memorializes an action adopted by the Unified Planning Board of the Borough of Union Beach at its meeting of May 31, 2017.

*Madeline Russo*

**Madeline Russo, Secretary  
Union Beach Unified Planning Board**