

**RESOLUTION
LAND USE BOARD
BOROUGH OF ALLENDALE
BERGEN COUNTY, NJ**

DATE: October 18, 2023

RESOLUTION# LUB 23-20

Carried Defeated Tabled

Land Use Board	Motion	Second	Yes	No	Abstain	Absent
	✓		✓			
Bergen			✓			
Putrino			✓			
Kistner					✓	
Daloisio						✓
Dalo			✓			
Sirico			✓			
Wilczynski			✓			
Warzala, Alt. 1			✓			
Butler, Alt. 2		✓				✓

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**LAND USE BOARD OF THE BOROUGH OF ALLENDALE
RESOLUTION APPROVING
APPLICATION FOR VARIANCE FOR
GIUSEPPE & ALEXANDRA DEPINTO
BLOCK 1503, LOT 16
(a/k/a 20 STONE FENCE ROAD)**

WHEREAS, the applicant, GIUSEPPE & ALEXANDRA DEPINTO, the owners of the property located at 20 Stone Fence Road, known as Block 1503, Lot 16 on the Tax Map, in the Borough of Allendale, County of Bergen and State of New Jersey, applied to the Land Use Board of the Borough of Allendale in an application dated August 29, 2023 for approval of variance relief for a proposed addition and renovations to the premises, which is located in the AA residential zone, from the Allendale Code, Zoning; and

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WHEREAS, variance relief is necessary since the property is pre-existing non-conforming, and the proposed addition/renovation requires variance relief from bulk standards in the Allendale Code; and

WHEREAS, the application and plans specifically seek approval to construct an addition and renovations to the existing dwelling, including an addition to the rear of the structure for a new kitchen and dining area, rear deck, and basement; and

WHEREAS, the application seeks specific variance relief for side yard setback; and

WHEREAS, the Land Use Board considered the matter at the September 18, 2023 regular meeting of the Land Use Board at which time the applicant personally appeared and testified;

NOW THEREFORE BE IT RESOLVED by the Borough of Allendale Land Use Board that it hereby makes the following findings of fact and conclusions:

1. Notice of the public hearing was properly given by the applicant in accordance with applicable law.
2. The property is located at 20 Stone Fence Road, known as Block 1503, Lot 16 on the Tax Map of the Borough of Allendale. The property is located in the AA residential zone. The application was in evidence.
3. As part of the application, the applicant submitted the Land Use Application and associated documents; the June 28, 2023, Allendale Code Enforcement Office correspondence (Anthony Hackett) to applicant deny zoning application; Plans entitled, "Area of Work"; and Architectural Plan Set entitled, "Addition At, 20 Stone Fence Road, 20 Stone Fence Road, Allendale, New Jersey 07401, Block 1503, Lot 16". The plans prepared by Michael A. Bet Architect, PC consist of 4 sheets and are dated with a latest revision date of May 30, 2023.
4. Borough Engineer, Michael Vreeland, P.E. reviewed the submissions by the applicant and prepared a Memorandum dated September 12, 2023. The Memorandum was in evidence and reviewed and examined by the members of the Land Use Board.

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5. Variance relief is required because this property located in the AA residential zone has pre-existing, non-conforming conditions, due to the rear yard encroachment, as follows:

§270-64B – Side Yard Setbacks. The existing right setback is noted to be ± 0.5 ft less than the required ± 20 ft. The proposal increases the GBA and expands the required enhanced side yard to ± 21.78 ft. The plan proposes to maintain the right setback distance and the renovated dwelling will further encroach into the expanded setback requirement.

6. The subject is currently developed with a single-family dwelling and associated amenities. The property is located within the Borough's AA Residence Zone District and is surrounded by residential uses. The application and plans propose addition and renovations to the dwelling (including rear footprint and first floor expansions). The application and plans request relief for conflicts with §270-37(A) (additions to nonconforming structures) and §270-64B (enhanced side yard setback).

7. The applicant's professional, Michael Bet, AIA, a licensed architect was sworn and accepted as an expert in the field of architecture. He testified as to the existing conditions of the property and the existing structure. The house structure is skewed on the property, and not centered on the lot. The applicant is seeking a one-story addition to the rear of the home to create a larger kitchen and dining area, and a larger back patio, by creating a larger building footprint. No work is being done on the existing pool or pool house. The variance relief requested is solely for a side-yard setback encroachment, which exists presently. Due to the increase in footprint, the side yard setback requirement is expanding from 20 feet to 21.78 feet, where 19.5 feet presently exists. The side yard encroachment is not expanding, it is merely a factor of the enhanced side yard setback requirement due to the increase in building area. No other variance relief is requested. This is a hardship C1 variance request. There will be new siding and design elements associated with the addition which will be an aesthetic improvement to the home. Any improvements on the property would require variance relief, due to the pre-existing non-conforming conditions. The addition would be aesthetically pleasing to the property and consistent with the neighborhood. The vegetation at the rear of the property is to remain, which will lessen any impact of the addition to any surrounding properties. There will be minimal to no visible impact to neighbors, and no additional lighting is proposed. The proposed addition is in the appropriate location in reference to the existing structure on the lot.

8. Borough Engineer, Michael Vreeland, P.E. reviewed the submissions by the applicant and prepared a Memorandum dated September 12, 2023. The Memorandum was in evidence and reviewed and examined by the members of the Land Use Board. Mr. Vreeland also provided testimony relative to the application to the Land Use Board. Mr. Vreeland testified that the proposed addition would have no impact on surrounding properties. The applicant specifically agreed to incorporate the recommendations of the Borough Engineer's review letter and testimony into the renovation plans.

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9. No members of the public appeared in connection with the application.

BE IT FURTHER RESOLVED, based upon the factual and legal evidence, testimony and contentions set forth herein, that the Allendale Land Use Board hereby grants the applicant's request for a variance relief, and to permit the addition and renovations as proposed in the application; and

BE IT FURTHER RESOLVED that the Allendale Land Use Board hereby determines that the variance hereby granted constitutes a "hardship" variance under N.J.S.A. 40:55 D-70C.(1); and

BE IT FURTHER RESOLVED that the Allendale Land Use Board specially adopts and accepts the testimony of the applicant's professional and the Borough Engineer, in connection with the testimony that the applicant is entitled to variance relief, due to the unique nature of the property, namely the irregular shape, physical placement of the home on the lot, and the pre-existing non-conforming condition, namely the existing side yard setback encroachment, which are all deemed hardships by the Board. In addition, the hardships associated with the present condition of the property and premises outweigh the negative criteria to the Borough zoning ordinances and the zone plan and neighborhood. Further, the addition will be aesthetically pleasing, it will conform with FAR regulations, and will not be obtrusive due to the placement and location of the proposed improvements and relatively minimal increase in encroachment; and

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BE IT FURTHER RESOLVED that the Allendale Land Use Board hereby grants approval of the requested variance, subject to the following conditions, which shall be complied with prior to the issuance of a construction permit:

- A. All fees and assessments required by ordinances, and due and owing to the Borough of Allendale for this site for professional review and approval of the applicant's plans, shall be paid in full to the Borough of Allendale by the applicant.
- B. Applicant and professionals shall work with the Borough Engineer in the event that any field adjustments shall be required for the proper construction of the proposed addition, so as not to negatively impact any surrounding properties and to minimize and address any stormwater or drainage issues, and comply with Mr. Vreeland's September 12, 2023 review letter, specifically points 4.1 through 4.7.3.
- C. Applicant shall prepare and submit an "As-Built" survey plot and plan as a condition of issuance of a Certificate of Occupancy.

BE IT FURTHER RESOLVED construction shall proceed in accordance with this Resolution, the approved plans and drawings marked in evidence, the testimony of the applicant in accordance with all applicable State, County and Municipal codes, ordinances, rules and regulations.

BE IT FURTHER RESOLVED that the Land Use Board Secretary shall mail a copy of this Resolution within ten days from the date of adoption thereof to the applicant or to their attorney, if any, without charge; and to all other persons who request the same and pay the required fee therefore. The Secretary shall also file a copy of this Resolution in the offices of the Borough Clerk, Building Inspector, Construction Code Official, Tax Assessor and the Borough Attorney and shall publish a brief notice of the decision in the official newspaper, the cost of which shall be paid for by the applicant.

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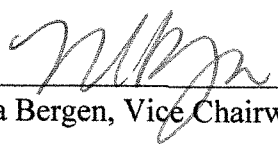
Approved:

ALLENDALE LAND USE BOARD



MICHAEL SIRICO, Chairman

Attest:



Melissa Bergen, Vice Chairwoman

Adopted: October 18, 2023