

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

DATE: January 19, 2022

RESOLUTION# LUB 21-24

Land Use Board	Motion	Second	Yes	No	Abstain	Absent
Bergen			X			
Daloisio	✓		X			
Davis			X			
Kistner			X			
Councilwoman Lovisolo			X			
Yaccarino			X			
Sirico		✓	X			
Mayor Bernstein			X			
Chairman Quinn			X			
Forbes – Alt. #1						
Putrino – Alt. #2						

Carried Defeated Tabled

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LAND USE BOARD OF THE BOROUGH OF ALLENDALE
RESOLUTION APPROVING
APPLICATION FOR VARIANCE FOR LISA & ERIC NEF
BLOCK 2005, LOT 6
(a/k/a 47 HOMEWOOD AVENUE)

WHEREAS, the applicants, Lisa and Eric Nef, the owners of the property located at 47 Homewood Avenue, known as Block 2005, Lot 6 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 October 24, 2021 for approval of a variance for the premises, which is located in the A zone, from the Allendale Code, Zoning; and

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WHEREAS, the application seeks variance relief since the improvements in the application as proposed would for conflicts with §270-63A(1), §270-64C(1) and §270-37A of the Code Specifically, applicants seek to construct a new second story addition to the premises; and

WHEREAS, the Land Use Board considered the matter at the December 15, 2021 regular meeting of the Land Use Board at which the applicants 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 applicants in accordance with applicable law.

2. The property is located at 47 Homewood Avenue. The subject property is currently developed with a single-family dwelling and associated amenities. The application and plan propose to construct improvements to the existing dwelling including: adding a second story addition. The subject ± 0.137 Acre lot is located within Allendale's A (Residential) Zone.

3. The Applicant is seeking variance relief for conflicts with §270-63A(1), §270-64C(1) and §270-37A of the Code, as specifically stated below:

Non-Conforming Conditions:

§270-18 – Garages in Residential Districts. The property does not have a garage. The subject application does not alter this condition.

§270-57E&F – Lot Area and Width. The existing lot is undersized. The plan indicates the lot is 14,000 sf less than the required 20,000 sf area and 65 ft. less than the required 115 ft. width. The subject application does not alter these conditions.

§270-63A(1) – Floor Area Ratios. The plan gross build area calculations do not include the shed and should be corrected. The proposal increases the GBA and will exceed the allowable 25% FAR by ±3.5%.

§270-64C(1) – Side Yard Setbacks. The proposal does not appear to trigger the enhanced side yard requirement. However, the existing dwelling encroaches ±3.2 ft. into the required 15 ft. side yard setbacks.

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§270-37A(4) – Additions to Nonconforming Structures. Alteration and improvements are proposed above existing nonconformities (i.e., encroachments into required yard areas).

4. The application was in evidence. As part of the application, the applicants submitted the following:

- Application, Checklists and Attachments; and
- Plan entitled, “Proposed Addition & Renovations, Nef Residence, 49 Homewood Avenue, Allendale, NJ”. The plan prepared by JMA Architects, LLC (John F. Musinski, R.A.) consists of one (1) sheets and is dated July 12, 2021; and
- Code Enforcement Office Correspondence dated July 20, 2021.

5. Borough Engineer, Michael Vreeland, P.E. reviewed the submissions by the applicant, inspected the property and prepared a Memorandum dated December 8, 2021. The Memorandum was in evidence and reviewed and examined by the members of the Land Use Board.

6. The applicant was sworn and testified that that property is an undersized lot consisting of only 6,000 square feet, wherein 20,000 square feet is required in the zone. It is also undersized in lot width, which limits the extent of any improvements. It is an existing single family home, and that the side yard setbacks are pre-existing, non-conforming. The improvements are a second story addition consisting of two bedrooms and two bathrooms. The landscaping will remain as is, and there will be no trees removed. Lighting will remain and soffit lighting will be added for entrances. The lot size and lot width are components of the hardship due to the existing conditions and pre-existing non-conformities. The proposed addition will improve the streetscape, and the modifications would be aesthetically pleasing to the property and functional for their family. The applicants testified as to the unique existing property conditions, such as the size and width of the lot and the placement of the home on the lot, and pre-existing non-conformities.

7. Borough Engineer, Michael Vreeland, P.E. reviewed the submissions by the applicant and prepared a Memorandum dated December 8, 2021. Mr. Vreeland also provided testimony relative to the application to the Land Use Board, and testified that the proposed improvements would have no negative impact on the zone. Applicants indicated on the record that they would comply with the requirements contained in points 4.1 through 4.7 of Mr. Vreeland’s December 8, 2021 review letter.

8. Several members of the public, in particular residents of neighboring properties, appeared in connection with the application and expressed support for the application.

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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 to permit the addition and modifications 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 and the Borough Engineer, in connection with the testimony that the applicant is entitled to a "hardship" variance, due to the unique nature of the property, namely the undersized lot size and undersized lot width, as well as the off-center placement of the existing structure. The application and variance would improve the property and improve the aesthetics, and the existing landscaping and natural shielding would remain. 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. In addition, the variance requested will not be obtrusive due to the placement and configuration of the primary structure on the lot, the location of the proposed improvements and encroachments, which are minimal; and

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.

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B. Applicant and his professionals shall work with the Borough Engineer in the event that any field adjustments shall be required for the proper construction of the proposed improvements, including any adjustments to drainage, so as not to negatively impact any surrounding properties, and comply with points 4.1 through 4.7 of Mr. Vreeland's December 8, 2021 review letter.

BE IT FURTHER RESOLVED construction shall proceed in accordance with this Resolution, the approved plans and drawings marked in evidence, the testimony of the applicants and 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.

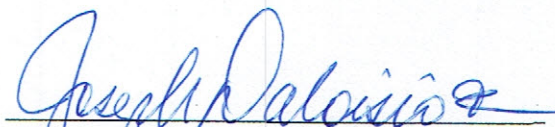
Approved:

ALLENDALE LAND USE BOARD



KEVIN QUINN, Chairman

Attest:



JOSEPH DALOISIO, SECRETARY