

RESOLUTION
 LAND USE BOARD
 BOROUGH OF ALLENDALE
 BERGEN COUNTY, NJ

DATE: May 18, 2022

RESOLUTION: 22-16

Land Use Board	Motion	Second	Yes	No	Abstain	Absent
Bergen						
Daloisio						
Davis			X			
Kistner		X	X			
Lovisollo						
Yaccarino			X			
Sirico	X		X			
Bernstein						
Quinn			X			
Forbes - Alt. #1			X			
Putrino - Alt. #2						

Carried Defeated Tabled

RESOLUTION 22-16

LAND USE BOARD OF THE BOROUGH OF ALLENDALE
 RESOLUTION APPROVING APPLICATION FOR VARIANCE RELIEF AND
 SITE PLAN APPROVAL FOR ABC VAULT PARTNERS, LLC
 BLOCK 1808, LOT 2
 (a/k/a 22 MAPLE STREET)

WHEREAS, the applicant, ABC Vault Partners, LLC, the owner of the property located at 22 Maple Street, known as Block 1808, Lot 2 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 December 9, 2021, seeking preliminary and final site plan as well as “d” variance approval to construct a 6-unit, later reduced to 4-unit, residential apartment building in place of what is currently a commercial bank drive-thru location, and

RESOLUTION
LAND USE BOARD
BOROUGH OF ALLENDALE
BERGEN COUNTY, NJ

DATE: May 18, 2022

RESOLUTION: 22-16

WHEREAS, the site is located in the C-1 Commercial Zone District. The application is seeking a use variance to permit the development of the site for multifamily residential use with parking and associated amenities, which is not currently permitted in the C-1 District as proposed, as well as ancillary bulk variances.

WHEREAS, the Land Use Board considered the matter at the March 14, 2022 and April 20, 2022 public meetings of the Land Use Board at which the applicant was represented by counsel, and at which the applicant's various professionals 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 given by the applicant in accordance with applicable law.
2. The subject site is identified as Block 1808, Lot 2, and is located at 22 Maple Street. The subject property is currently developed with a 1-story drive-thru building and associated amenities. The ±0.259 Acre lot is located within Allendale's C-1 (Central Business) Zone. The lot and structure on it is surrounded by surface parking with ingress and egress provided via a driveway to and from Maple Avenue. Surrounding uses include residential development as well as commercial uses. The property is located in the "C-1" Central Business Zone. The application was in evidence, as well as various plans and associated exhibits, inclusive of revisions.
3. The plans and application proposed to demolish all existing structures within the lot to construct a two-story multi-family building consisting of 6-attached 1-bedroom apartments, later modified to 4-attached 2-bedroom units in an apartment building with associated amenities. The development would include associated improvements such as parking, landscaping and drainage.
4. The proposed application sought a use variance to construct a multifamily residential building within the C-1 Central Business Zone wherein multifamily residential structures of this type are not a permitted use. Specifically, the application sought variance relief for the following:

RESOLUTION
LAND USE BOARD
BOROUGH OF ALLENDALE
BERGEN COUNTY, NJ

DATE: May 18, 2022

RESOLUTION: 22-16

a. §270-66– Permitted uses: Permitted uses within the C-1 District include all uses permitted in the A, AA, AAA, and B Districts. Multi-family dwellings in excess of 2-units are not listed as permitted use in those districts. In addition, the C-1 District list does not increase the permitted number of multi-family units. The proposed Multi-Family dwelling conflicts with these requirements and would require relief from the Board pursuant to the Municipal Land Use Law (MLUL) under N.J.S.A. 40:55D-70.d.(1). Residential use is not permitted below the second floor in any structure in the C-1 District. The proposal conflicts with this requirement and would require relief from the Board under NJSA 40:55D-70.d.(1).

b. Non-Conforming Conditions: §270-69D(2) – Rear Yard Setbacks: The required rear yard setback for properties abutting any residential zone district is 24 ft. The plans indicate the proposed multi-family dwelling rear setback is 3.3 ft abutting B (Two-Family Residential) and C-1 (Business) zone districts.

c. Parking: §147-35(B) – Off-street parking shall be consistent with applicable provisions of the zoning ordinance. For residential developments, parking shall be provided as set forth in Table 4.4 of the Residential Site Improvement Standards (RSIS). Table 4.4 requires 1.8 spaces for each one-bedroom apartment which is equivalent to 11 parking spaces. The application proposes 7 parking spaces. The application was later modified to provide for 8 parking spaces, which was consistent with the Borough requirements and RSIS standards, thereby eliminating the need for this variance.

5. In connection with the application, the applicant presented testimony from Michael Scro, AIA, and Mr. Scro was accepted as an expert in the field of Architecture. Mr. Scro presented and testified as to Architectural plans he prepared, last revised 2/25/22, and marked as Exhibit A-1 and A-2. Mr. Scro testified as to the proposed layout of the apartment building, interior units and exterior design. He further testified that the façade would be consistent with the colonial and traditional aspect of Allendale’s architecture, as well as surrounding residential dwellings. He further testified that the site was unique, and that commercial uses, including retail, were not viable at the location. He explained that the location of the proposed building on the North side of the lot places it closer to existing and similar residential uses than commercial uses. Mr. Scro testified that the applicant had modified the plans to reduce the project to four (4) market rate units with two (2) bedrooms each. High quality materials would be utilized, and the architectural designs and details would enhance the aesthetic appeal and character of the development. The proposed improvements would be better than what exists at the site at present. The proposed height of the building would be 27.6 feet, wherein the limit was 28 feet in the zone. No exterior signage was proposed. He also testified that the irregular shape of the site did not allow the façade to face Maple Street, but that architectural details would breakdown the appearance from Maple Street of the side façade. There would be no patios or balconies in the rear of the building, no outdoor storage, and HVAC condensers would be situated away from the residential neighbors. There will be a kitchen,

RESOLUTION
LAND USE BOARD
BOROUGH OF ALLENDALE
BERGEN COUNTY, NJ

DATE: May 18, 2022

RESOLUTION: 22-16

dining room, living room, mechanical room, laundry closet, bathroom and two bedrooms in each of the four units. Sprinklers are not required but the applicant has agreed to install them in the building. There are no basements, and no rooftop mechanicals are to be used.

6. Thomas Didio was sworn in and testified as one of owners/principals of the entity that owns the property. He testified that he had sought alternative uses at the site, but that other commercial uses, including retail, were not viable at the site. He stated that if approved, the project would be market rate rentals, and leases would state no dogs and no grilling on the property. They would retain a landscaper for landscaping and snow removal, and that waste hauling and recycling would be by private carting. He agreed to have the building fully sprinklered.

7. Kiersten Ostercorn, Professional Engineer, was sworn in and her credentials were accepted by the Board, and she was deemed an expert in Engineering. Ms. Ostercorn stated she prepared the site plan, last revised 2/22/2022, and accepted as Exhibit A-3 and Exhibit A-4. The site plan was presented and elements of the plan, including the parking, were reviewed and testified to the Board. There is no drainage on site currently. The proposal for drainage is an underground chamber detention system for the roof area and the entire property, which would significantly improve drainage for the site. She testified as to landscaping, and that existing buffer would remain, and additional arborvitae buffer would be added to the property. Ms. Ostercorn stated the lighting at the doors will be soft down lights. House light shields will be used to control the spillage. The lights will be on from dusk until dawn. The two light poles in the parking area will be 16 feet tall to comply with the Borough Ordinance. Exhibit A5 was presented and authenticated, which were photos of the existing conditions on the site. Ms. Ostercorn testified that there would be minimal impact on neighbors, and that the drainage improvements would be a positive impact since it would restrict waterflow off-site by retaining water in the proposed detention system on site. The front and side yard setbacks had been met, but a variance was required for the rear yard setback, in which 3.3 feet was proposed wherein 24 feet was required by Ordinance in this zone. Fencing was explained as being around the property at the height of five feet, and the project would maintain and tie-in with the existing Allendale downtown streetscape.

Ms. Ostercorn continued her testimony on April 20, 2022 and presented Exhibit A-8, which was an aerial photograph exhibit and renderings, as well as soil test results (Exhibit A-9). The revised plans called for eight (8) parking spaces, which met the code and eliminated the need for variance relief for parking. This was accomplished through reconfiguration of the parking layout. The dumpster area was moved to the back corner away from residents, and the fence as proposed was to be five feet high and would work around existing trees so that they would remain wherever possible. The sight triangle would be maintained at the entrance to the property, in conjunction with the recommendations of the Borough Engineer in the field. Green giant arborvitae were proposed for additional buffering since they are hearty, grow fast and are deer resistant.

RESOLUTION
LAND USE BOARD
BOROUGH OF ALLENDALE
BERGEN COUNTY, NJ

DATE: May 18, 2022

RESOLUTION: 22-16

8. Kathryn Gregory, Planner, was sworn at the April 20, 2022 meeting, and accepted by the Board as an expert in the field of Planning. Ms. Gregory testified as to the present zoning conditions and properties in the surrounding area, and that the site was particularly suited to the proposed use. She testified as to the variances requested and the rationales for the requested variances. She specifically testified that the property was close to downtown Allendale and existing transit, and was in a transitional area because the commercial district, and single-family residential uses were in close proximity to the site. Ms. Gregory set forth the criteria for D(1) variance relief. In connection with the D(1) variance relief sought by the applicant, she stated that the positive criteria was that the application would bring a non-conforming site into greater conformity with the area, and that the existing structure was non-conforming and unattractive. She testified that the application was an opportunity to remove a poor use and improve the use and property. She testified that the site was particularly suited to the proposed townhouse use, in light of the mix of residential uses in the area, and that it was a transit-orientated development, which is favored by the State. In addressing the negative criteria, Ms. Gregory testified that there would be no negative impact on the surrounding zone and it would diminish the disturbances of the existing use and be less intense. It would also attract long-term residents, and have no impact on municipal services and/or taxes. The purposes of the MLUL would also be advanced by the application, since it would promote appropriate light and space uses; was transit-orientated; was replacing an outdated use with an aesthetically pleasing structure; was promoting health and safety of the neighborhood; and promoted the continued vitality of the downtown business area. She further testified that the development would advance the goals of the MLUL and Borough's Master Plan, and promote various housing opportunities for citizens of the State, and encourage an appropriate mix of housing stock which would compliment each other. It would also only be an increase of two units over what could be built, i.e., a two family structure and use.

In connection with the requested C variance for the rear yard setback, she testified that the property was uniquely situated, and that the variance was technical in nature since it actually abuts the commercial district open space and not the residential use. The setbacks and buffers were adequate for the proposed zone and neighborhood, and could be granted with any substantial detriment to the neighborhood, zone or Borough Master Plan. She also testified that this was the only "C" variance requested, since the need for a variance for parking had been eliminated with the most recent revision to the application. She further testified as to Exhibit A6, which was an aerial photograph from "Bing" maps which shows the existing conditions and the pathway to the nearby NJ Transit Train Station.

9. Hal Simoff, Traffic Engineering Expert, was sworn and testified at the April 20, 2022 meeting. He was accepted by the Board as an expert in the field of traffic engineering. Mr. Simoff presented trip generation statistics and stated the trip generation for the bank is 240 movements per day while the trip generation for the application as proposed with four units is 8 movements per day. In the afternoon there are 54 movements for the bank and 2 movements in the afternoon for the application as proposed. It was testified that the difference and reduction of

RESOLUTION
LAND USE BOARD
BOROUGH OF ALLENDALE
BERGEN COUNTY, NJ

DATE: May 18, 2022

RESOLUTION: 22-16

traffic with the proposed use was important and significant. He also testified that the application met the parking requirements. He concluded that the application is better than the alternative commercial, retail use, and existing use, and complies with RSIS. The Borough Engineer concurred with Mr. Simoff's testimony.

10. In connection with the interpretation of the existing use and the variance application, Borough Planner, Edward Snieckus, P.P., L.L.A., A.S.L.A. reviewed the submissions by the applicant, listened to the testimony of the applicant's professional and prepared Memorandum dated January 17, 2022 and March 8, 2022 (revised in light of the applicant's changes to their plans). The Memorandum was in evidence and reviewed and examined by the members of the Land Use Board. Mr. Snieckus also asked questions of the applicant's professionals.

Mr. Snieckus stated that according to the Borough zoning ordinance, the C-1 zone serves "as the principal retail and service area of the Borough, accommodating shopping and business needs customary in a residential community. The zone is intended to serve the following functions: to provide convenience goods and services to the Borough and its residents; to provide consumer goods and services usually attendant to the needs of a residential community; and to provide office uses which complement and support the business uses and which are customarily attendant to the needs of a residential community." He asked pointed questions of the applicant's Planner, who responded directly and testified that that application promoted the safety, health and welfare of the community; that the application provided for a mixture of types of units available in the community; and that the proposed use was a better use than existed at present. The application was separated by a parking lot from the existing commercial uses, and the apartment building as proposed acted as a buffer to the residential zone in the rear.

Mr. Snieckus also reviewed the Borough Master Plan, and stated that one of the goals of the Master Plan was to maintain and enhance the viability of the central business district through proper planning, and that an associated goal of the Master Plan was to preserve and enhance the suburban character of the existing one and two family residential neighborhoods through establishing and maintaining buffer requirements and transitional zone between more intensive uses and one and two-family uses and zones.

11. The Borough's Engineer, Michael Vreeland, P.E., reviewed the submissions by the applicant, asked questions of the applicant's professionals, and prepared a Memorandum dated January 10, 2022. The Memorandum was in evidence and reviewed and examined by the members of the Land Use Board.

12. Land Use Board members asked questions of the applicants' Engineer, Architect and Planner, the applicant's counsel, and the Borough professionals relative to the merits of the application. Particular questions were raised as to the size and scope of the proposed development,

RESOLUTION
LAND USE BOARD
BOROUGH OF ALLENDALE
BERGEN COUNTY, NJ

DATE: May 18, 2022

RESOLUTION: 22-16

the appropriateness of the multi-family use in the C-1 zone, and buffering and landscaping. Specifically, Board Member Davis stated that she felt that the burden of proof for variance relief had been met, and that the existing site was an eyesore and this was the best solution for this site. Board Member Kistner stated that he agreed, and that he believed that the applicant had compromised and agreed to all the Board's requests and the residents' concerns. Board Member Yaccarino stated that the Board was looking at a dilapidated structure and that the application as proposed had a less intense use of the property.

13. Members of the public appeared in connection with the application and asked questions of the applicant's Planner, Engineer, Architect and Planner, the applicant's counsel, and the Borough professionals relative to the merits of the application, and provided testimony related to the merits of the application. Particular concerns and questions were raised as to the size and scope of the proposed development, the appropriateness of the multi-family use in the C-1 zone, drainage issues to adjacent properties, buffering and landscaping, the height of the proposed fencing, parking, garbage collection and traffic.

NOW THEREFORE, BE IT RESOLVED, based upon the factual and legal evidence, testimony and contentions set forth herein, that the Allendale Land Use Board hereby approves the applicant's request for a D(1) use variance to permit the development of the site for multifamily residential use with parking and associated amenities, as well as an ancillary bulk variance relief for rear yard setback requirements. In connection thereto, the preliminary and final site plan approval is granted.

BE IT FURTHER RESOLVED that the Municipal Land Use Law (MLUL) sets forth the statutory positive and negative criteria for '(d)' or use variance relief. It permits a Land Use Board to grant a 'd' variance, as with a 'c' variance, "in particular cases and for special reasons." The Courts have determined that special reasons include a showing by the applicant that the granting of the variance will effectuate the intent and purpose of the MLUL and advance the goals and objectives of the local master plan. This is the "positive criteria" of the statute. To address the "negative criteria" of variance relief, the applicant must demonstrate that the proposed variance

RESOLUTION
LAND USE BOARD
BOROUGH OF ALLENDALE
BERGEN COUNTY, NJ

DATE: May 18, 2022

RESOLUTION: 22-16

can be granted "without substantial detriment to the public good" nor will the granting of the variance "substantially impair the intent and the purpose of the zone plan and zoning ordinance" of the municipality.

BE IT FURTHER RESOLVED that the Allendale Land Use Board hereby specifically determines that the applicant has met its burden of proof and it has shown that the proposed development and requested variances for use and rear yard setback can be granted without substantial detriment to the public good, and has determined that an approval would not substantially impair the intent and the purpose of the zone plan and zoning ordinance, despite the fact that the proposed use as presented is prohibited in the C-1 Central Business Zone; and

BE IT FURTHER RESOLVED that the Allendale Land Use Board specially accepts the testimony of the applicant's Professional Planner, Katherine Gregory, P.P. that the proposed development would be particularly well-suited for the zone and site, in light of it being a transition area in the zone, and the testimony that the development would fit within the residential zone adjacent to it.

BE IT FURTHER RESOLVED that the Allendale Land Use Board specially accepts the testimony of the applicant's Professional Planner, Katherine Gregory, P.P., and concludes that the site is suitable for the proposed use, as the proposed use promotes the health, safety and welfare of the community, promotes a desirable visual environment, and promotes the provision of sufficient light, air and space in appropriate locations. It is specifically accepted that the application is a transit-orientated development, which is favored, and that the application will enhance the vitality of the Borough's downtown.

RESOLUTION
LAND USE BOARD
BOROUGH OF ALLENDALE
BERGEN COUNTY, NJ

DATE: May 18, 2022

RESOLUTION: 22-16

BE IT FURTHER RESOLVED that the Allendale Land Use Board specially adopts and accepts the testimony of the applicant's Professional Planner, Katherine Gregory, P.P., in connection with her testimony that the proposed use enhances the suburban character of one and two family residential neighborhoods with appropriate buffering requirements and developments between uses, and this application does advance that goal of the Master Plan; and

BE IT FURTHER RESOLVED that the Allendale Land Use Board finds and concludes that "special reasons" exist for the granting of the variance, and that the grant of the variance would advance the purposes of the Municipal Land Use Law. The Board further finds that approval of the variances would not result in a substantial detriment to the public good, and that the benefits of the proposed deviation do substantially outweigh the various detriments, including the scale of the proposed development relative to the residences immediately surrounding the site which are single-family and two-family structures. The Board further determines that the insertion of a multi-family use in this zone, the impact on light, air and space in the zone, and the density of the proposed development would have limited impact on the zone. The Board also concludes that the grant of the variance will not substantially impair the intent and purpose of the Allendale zone plan and zoning Ordinances since the proposed buffer and setbacks for the use were sufficient to adequately support the goals of the Master Plan.

BE IT FURTHER RESOLVED, for the foregoing reasons, that the Allendale Land Use Board hereby approves the application and determines that the evidence presented in support of the requested variance relief does meet the factual or legal criteria for a use variance under N.J.S.A. 40:55D-70(d)(1); and

RESOLUTION
LAND USE BOARD
BOROUGH OF ALLENDALE
BERGEN COUNTY, NJ

DATE: May 18, 2022

RESOLUTION: 22-16

BE IT FURTHER RESOLVED that Preliminary and Final Site Plan approval, and associated variance relief and incidental waivers, for the premises at Block 1808, Lot 2, as shown on the Tax Map of the Borough of Allendale, is hereby **GRANTED** subject to the following conditions:

1. All the conditions set forth in the findings of fact of this Resolution are made conditions of this approval and must be adhered to and complied with by the Applicant. The Applicant shall comply with all of the conditions set forth on the final, revised plans set forth in this Resolution and marked as Exhibits during the Public Hearing. (Exhibit A1-A9), including but not limited to Plans entitled, "Preliminary and Final Site Plan For, 22 Maple Street, Tax Map Block 808, Lot 2- Zone C-1 (Central Business), Borough of Allendale, Bergen County, New Jersey". The plans prepared by Omland & Osterkorn, Inc. (Kiersten Osterkorn, PE, PLS) are dated October 15, 2021 and revised through April 8, 2022. The applicant's Engineer's letter to the Board dated April 8, 2022 is specifically incorporated into this Resolution and made part of the approval.
2. The plans prepared by Z+ Architects (Mary Fitzpatrick Scro, RA) entitled "Maple Residence, 22 Maple Street, Allendale, NJ" consist of three (3) sheets and are dated October 15, 2021, last revised February 25, 2022 are also specifically incorporated into this Resolution and made part of the approval.
3. Applicant shall comply in all respects with all applicable State, County and Municipal codes, ordinances, rules and regulations, and remain subject to all other governmental approvals prior to development.
4. Applicant shall be required to enter into a Developer's Agreement to be prepared by the Borough Attorney. The Applicant shall post all necessary fees, and pay all expenses for the Borough's professionals as it pertains to the review of this application and preparation of the Developer's Agreement, and post adequate performance guarantees to protect the interests of the Borough and to secure the performance of development.
5. Applicant and their professionals shall work with the Borough Engineer in the event that any field adjustments shall be required for the proper construction of the proposed development, so as not to negatively impact any surrounding properties, and comply with points 4.1 through 9.5 of Mr. Vreeland's January 10, 2022 memorandum.

RESOLUTION
LAND USE BOARD
BOROUGH OF ALLENDALE
BERGEN COUNTY, NJ

DATE: May 18, 2022

RESOLUTION: 22-16

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.

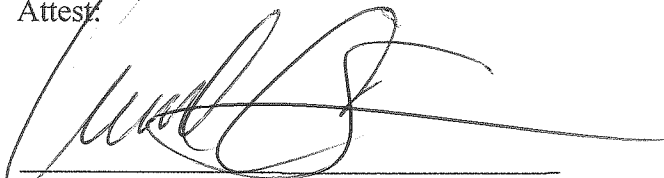
Approved: May 18, 2022

ALLENDALE LAND USE BOARD



KEVIN QUINN, Chairman

Attest:



JOSEPH DALOISIO, SECRETARY

Michelle A. Sileo