

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

DATE: March 17, 2021

RESOLUTION# LUB 21-13

Land Use Board	Motion	Second	Yes	No	Abstain	Absent
Bergen			✓			
Daloisio			✓			
Davis			✓			
Kistner			✓			
Lovisolio	✓		✓			
Councilman Sasso						✓
Sirico		✓	✓			
Mayor Bernstein						✓
Chairman Quinn			✓			
Yaccarino - Alt. #1			✓			
Forbes - Alt. #2			✓			

Carried  Defeated  Tabled

RESOLUTION 21-13

LAND USE BOARD OF THE BOROUGH OF ALLENDALE  
RESOLUTION APPROVING  
APPLICATION FOR VARIANCE FOR DAVID & YOLANDA CAFIERO  
BLOCK 101, LOT 14  
(a/k/a 100 ELBROOK DRIVE)

WHEREAS, the applicant, DAVID & YOLANDA CAFIERO, the owners of the property located at 100 Elbrook Drive, known as Block 101, Lot 14 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 February 11, 2021 for approval of a variance for a proposed addition to the premises, which is located in the AA zone, from the Allendale Code, Zoning; and

WHEREAS, the application seeks a variance since the property is pre-existing non-conforming and the addition as proposed would result in a 24.9-foot side yard setback, whereas a

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26.6-foot side-yard setback is required, due to the enhanced setback requirements imposed by Code based on the square footage of proposed improvements.

**WHEREAS**, the application specifically seeks approval to construct a two-story addition along the northeast side of the dwelling as well as a one-story addition and covered portion along the rear of the dwelling; and

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

**WHEREAS**, the Land Use Board considered the matter at the February 24, 2021 regular meeting of the Land Use Board at which time the applicants and the applicant's architect, Eric Kiellar, AIA, personally appeared (virtually) 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 100 Elbrook Drive, known as Block 101, Lot 14, 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 Architectural Plans prepared by BlueLine Architecture, LLC, dated February 1, 2021, a survey/plot plan prepared by Schwanawede/Hals Engineering, with a last revision date of February 8, 2021, various photographs and correspondence. These plans and exhibits were in evidence and reviewed and examined by the members of the Land Use Board.
4. Borough Engineer, Michael Vreeland, P.E. reviewed the submissions by the applicant and prepared a Memorandum dated February 18, 2021. The Memorandum was in evidence and reviewed and examined by the members of the Land Use Board.

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5. A variance is required because this property located in the AA residential zone, due to the structure in place and proposed enlarged floor area, requires minimum side yard setbacks of 26.6 feet. The present left-side yard setback is 24.2 feet. The proposed addition would result in a left-side yard setback of 24.9 feet.

6. The proposed improvements will include a two-story addition along the northeast side of the dwelling as well as a one-story addition and covered portion along the rear of the dwelling.

7. The applicant's architect, Eric Kiellar, AIA, was sworn and accepted as an expert in the field of architecture. He testified as to the existing conditions of the property, and that the applicant was seeking to construct an addition to the home to better accommodate his family and improve the flow of the home. Any improvements on the property would require variance relief, due to the pre-existing non-conformity of the side yard setback. The proposed improvements would include a two-story addition along the northeast side of the dwelling as well as a one-story addition and covered portion along the rear of the dwelling. The proposed addition would not significantly increase the current left side yard encroachment. He testified that there was adequate screening on the side of the property with existing landscaping, and that the application did not call for the removal of any existing buffer screening or trees on the property. All other bulk requirements and setbacks are in full conformance with the existing Zoning code. The applicant's architect also testified about the construction of an expanded family room/great room and kitchen on the first-floor addition, and reconfiguration of bedrooms and bathrooms on the second-floor addition. The applicant's expert specifically referenced the architectural plans and plot plan depicting the proposed addition and testified that the property was unique due to the trapezoidal shape, inconsistent lot width and placement of the premises towards the left side of the property line. The addition would be aesthetically pleasing to the property, an upgrade to the present condition, consistent with neighborhood, functional for the family and shielded from neighbors by existing buffer vegetation on the left side which would remain. Additionally, there would be a benefit since the improvements would reduce the height of the existing gable roof exposure through changing the pitch and reducing the visual impact of the roof surface. The applicant's architect also testified that there would be no impact on any surrounding properties or the zone, and that the benefits of the variance relief would outweigh any detriments. He also testified that the addition would actually be an improvement to the zone through the aesthetic improvements consistent with the updated and more contemporary style of the home.

8. Borough Engineer, Michael Vreeland, P.E. reviewed the submissions by the applicant and prepared a Memorandum dated February 18, 2021. 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, and testified that the proposed addition would have no negative impact on the zone and the variance was minimal in

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scope. Additionally, he testified that the majority of the addition is in the rear, which has ample property, and that the improvements appropriately blended in with the existing neighborhood. He also testified as to drainage conditions and that recommended drainage elements be incorporated into the renovation. He testified that additional buffer landscaping should be considered since two mature trees are being removed on the right side of the property.

9. Several members of the public appeared in connection with the application. These neighbors expressed no concerns with the addition and renovation after seeing the plans and hearing the testimony.

**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 for side-yard setback relief, and to permit the additions 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 variance under N.J.S.A. 40:55 D-70C.(1) and N.J.S.A. 40:55 D-70C.(2); and

**BE IT FURTHER RESOLVED** that the Allendale Land Use Board specially adopts and accepts the testimony of the applicant, the applicant's architect and the Borough Engineer, in connection with the testimony that the applicant is entitled to a variance, due to the unique nature of the property, namely the pre-existing non-conformity on the property and trapezoidal shape of the lot (N.J.S.A. 40:55 D-70C.(1)), and due to the fact that the purposes of the MLUL would be advanced by a deviation from the zoning ordinance requirements and that the benefits would outweigh any detriment to the public good (N.J.S.A. 40:55 D-70C.(2)).

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Specifically, the application (1) relates to the specific piece of property at 100 Elwood Drive; (2) the purposes of the MLUL would be advanced by a deviation from the zoning ordinance requirement by allowing the 24.9 foot side yard setback to construct a two-story addition along the northeast side of the dwelling as well as a one-story addition and covered portion along the rear of the dwelling, since the aesthetics of the property will be significantly improved by the upgrades to the façade, siding and roof modifications; (3) the variance can be granted without substantial detriment to the public good since it will have no negative impact on the surrounding properties or the zone; (4) the benefits of the deviation to permit the addition will substantially outweigh any detriment and (5) the variance will not substantially impair the intent and purpose of the zone plan and zoning ordinance, since it will be consistent with the zone plan. As such, in this instance, the granting of the variance will benefit the community in that it represents a better zoning alternative for the property than would a strict adherence to the Zoning Code.

**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. Applicants 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 addition, including any adjustments to drainage, connection with seepage pits, stormwater management, tree removal, installation of additional landscaping buffers and soil movement, so as not to negatively impact any surrounding properties.

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C. Applicants shall comply with all requirements for obtaining a soil movement permit, a tree removal permit, a street opening permit, as well as approval from the Bergen County Soil Conservation District, if required.


D. Applicants 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 applicants and their professionals 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

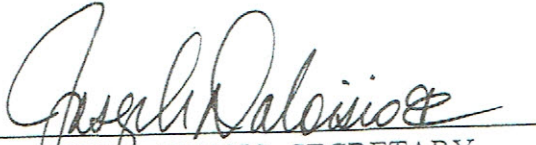
  
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KEVIN QUINN, Chairman

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Attest:

  
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JOSEPH DALOISIO, SECRETARY

Adopted: March 17, 2021