

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

DATE: May 17, 2021

RESOLUTION# LUB 21-14

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

Carried Defeated Tabled

RESOLUTION 21-14

LAND USE BOARD OF THE BOROUGH OF ALLENDALE
RESOLUTION APPROVING
APPLICATION FOR VARIANCE FOR TIMOTHY J. DRISCOLL
BLOCK 1503.01, LOT 17
(a/k/a 36 CARTERET ROAD)

WHEREAS, the applicant, TIMOTHY J. DRISCOLL, the owner of the property located at 36 Carteret Road, known as Block 1503.01, Lot 17 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 March 8, 2021 for approval of a variance for proposed new construction of a single-family home on the premises, which is located in the AA zone, from the Allendale Code, Zoning; and

WHEREAS, the application seeks a variance since the property and the proposed construction of the single-family home, which contemplates a Gross Building Floor Area (GBA)

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in excess of 5,600 square feet, would require 40-foot side yard setbacks, and the structure as proposed would result in a 20.3-foot left yard setback.

WHEREAS, the application specifically seeks approval to construct an entirely new single-family home with a GBA of 9,776 square feet on this 2.14-acre lot; and

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

WHEREAS, the Land Use Board considered the matter at the April 21, 2021 regular meeting of the Land Use Board at which time the applicant's counsel (John Veteri, Jr.) and the applicant's architect (Daniel D'Agostino, 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 36 Carteret Road, known as Block 1503.01, Lot 17, 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 Daniel D'Agostino, AIA, dated March 10, 2021, a survey/plot plan prepared by Christopher Lantelme, P.E. & L.S., dated November 30, 2020, the December 21, 2020 letter from the Allendale Code Official, 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 April 2, 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 proposed structure on the premises, requires minimum side yard setbacks of 40 feet. The proposed new construction would result in a left-side yard setback of 20.3 feet.

6. The application and proposed new construction on the submitted plans also sought variance relief for a front yard setback. The minimum front yard setback in the zone is 50 feet. The original plans sought variance relief for a setback of 45.4 feet. However, during the course of the applicant's presentation, the applicant, through counsel, abandoned the request for a front yard variance, and consented to making adjustments to the plans so that the new construction complied with the 50-foot required front yard setback. The applicant shall submit building plans which comply with the front yard setback requirement.

7. The proposed new construction will consist of a new single-family home with associated amenities (outdoor patio and pool) with a GBA of 9,776 square feet. Everything presently on the site is proposed to be removed prior to the start of construction on the new structure.

8. The applicant's architect was sworn and accepted as an expert in the field of architecture. He testified as to the existing physical conditions of the property, and that the applicant was seeking to construct a new single-family home in place of an abandoned partially completed structure that has been present on site and an eyesore to neighbors and the community for many years. He testified that the property was irregularly shaped, and included several environmental limitations, including but not limited to the presence of the Ho-Ho-Kus Brook in the rear portion of the property, a sanitary sewer easement, and stream encroachment restrictions. The property also has narrow frontage on Carteret Road, as compared to the rear of the property which expands in width as it extends to the rear. The proposed structure will consist of a three-car garage, and the main residence structure will be angled to fit in the center front of the property, with a deck and patio in the rear. He testified that there was existing vegetative screening on the side of the property, and that the applicant would be willing to install additional buffer screening on both sides of the property. Other than the left side yard setback, the plan, as amended with the removal of the front yard variance request, would conform with all other bulk requirements and setbacks in the existing Zoning code for the AA zone. The applicant's architect also testified about the stormwater management improvements that were part of the plan, including several (4) seepage pits/drywells, and that this would be a significant improvement since there was no stormwater management on site at present. The applicant's expert specifically referenced the architectural plans and plot plan depicting the proposed new construction and testified that the property was unique due to the irregular shape and environmental constraints, as well as the narrow frontage. The new construction would be aesthetically pleasing to the property and neighborhood, functional for the family and shielded from neighbors by existing vegetation which would remain and new

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plantings. Alternative plans were specifically considered but not deemed feasible or practical. The applicant's architect also testified that there would be no impact on any surrounding properties or the zone, since there would be no significant expansion of the non-conforming condition which existed on the previous and present partially completed structure, and that the benefits of the

variance relief would outweigh any detriments. He also testified that the new construction would actually be an improvement to the zone, and would have no negative impact on the zone.

9. Borough Engineer, Michael Vreeland, P.E. reviewed the submissions by the applicant and prepared a Memorandum dated April 2, 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 his memorandum had several technical comments which the applicant had agreed to comply with, and that the proposed improvements would have no negative impact on the zone. He also testified as to drainage conditions and recommended drainage elements be incorporated into the construction. The applicant and his architect specifically agreed to incorporate the recommendations of the Borough Engineer's review letter and testimony into the construction plans.

10. Several members of the public appeared in connection with the application. These neighbors expressed some concerns with the size and style of the proposed new construction, and side yard setback variance. The neighbors were given explanations by the applicant's experts, and the applicant agreed to provide estate fencing and additional landscape screening, especially on the left and right sides, and to modify to some extent the large picture window facing West.

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 new construction on site and as proposed in the application (as amended at the hearing to remove the front yard encroachment); 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

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BE IT FURTHER RESOLVED that the Allendale Land Use Board specially adopts and accepts the testimony of 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 irregular shape of the property, which is narrow in front and expands to the rear, the environmental constraints on the property, and its compliance with other bulk zone requirements.

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 shall comply with permit requirements, including but not limited to Certification from the Bergen County Soil Conservation District, Borough Soil Movement Permit; Borough Tree Removal Permit and Borough Street Opening Permit.
- C. 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 new structure, including any adjustments to drainage, connection with seepage pits, stormwater management, tree removal and soil movement, and the installation of additional landscape screening, so as not to negatively impact any surrounding properties.
- D. 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 (as may be amended to comply with conditions agreed to by the applicant at the public hearing), the testimony of the applicant's

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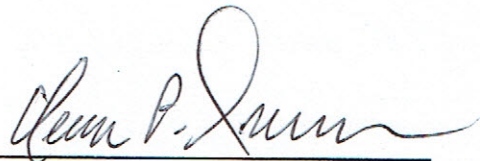
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professional and in accordance with all applicable State, County and Municipal codes, ordinances, rules and regulations.

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 the 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.

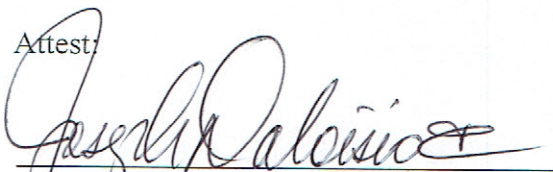
Approved:

ALLENDALE LAND USE BOARD



KEVIN QUINN, Chairman

Attest:



JOSEPH DALOISIO, SECRETARY

Adopted: May 17, 2021