

RESOLUTION  
 LAND USE BOARD  
 BOROUGH OF ALLENDALE  
 BERGEN COUNTY, NJ

DATE: May 18, 2022

RESOLUTION: 22-17

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

Carried  Defeated  Tabled

RESOLUTION 22-17

LAND USE BOARD OF THE BOROUGH OF ALLENDALE  
 RESOLUTION APPROVING  
 APPLICATION FOR VARIANCE FOR  
 VINCENT PERGOLA & ANNE PETERSON  
 BLOCK 511, LOT 7  
 (a/k/a 38 EAST CRESCENT AVENUE)

WHEREAS, the applicants, VINCENT PERGOLA & ANNE PETERSON, the owners of the property located at 38 East Crescent Avenue, known as Block 511, Lot 7 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 9, 2022 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 additions  
and renovations to the existing dwelling, including a rear two-story addition and side attached car  
port; and

WHEREAS, the application seeks specific variance relief for front yard and side yard  
encroachments, lot area, lot width, height, and for addition to the non-conforming structure; and

WHEREAS, the Land Use Board considered the matter at the April 18, 2022 regular  
meeting of the Land Use Board at which time the applicants, accompanied by counsel, and their  
professional engineer 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 38 East Crescent Avenue, known as Block 511, Lot 7, 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 following:
  - Application with Attachments;
  - Plan entitled, "Site Plan For Vincent Pergola, Lot 7 Block 511 38 East Crescent Avenue, Borough Of Allendale, Bergen County, N.J." The plan prepared by Lantelme, Kurens & Associates, P.C. (Christopher Lantelme, PE, LS) is dated with a latest revision date of March 7, 2022; and

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- Plans entitled, "Pergola Residence Two-Story Addition, 38 E. Crescent Avenue, Allendale, New Jersey". The plans prepared by Harry J. Goldstein (Harry J. Goldstein, RA) consist of 3 sheet and are dated with a latest revision date of December 23, 2021.

4. Borough Engineer, Michael Vreeland, P.E. reviewed the submissions by the applicant and prepared a Memorandum dated April 4, 2022. The Memorandum was in evidence and reviewed and examined by the members of the Land Use Board.

5. Variance relief is required because this property located in the AA residential zone and has a pre-existing, non-conforming condition, due to the structure in place, shape of the lot and proposed addition, as follows:

§270-37A(4) – Additions to Nonconforming Structures

Proposed alteration and improvements do not comply with development regulations.

3.1.2. §270-54A – Height

The existing dwelling height of 35.2 ft exceeds the maximum allowable height of 35 ft. The proposed improvements increase the height to 37.1 ft.

3.1.3. §270-54B –Front Yard

The existing dwelling encroaches ±8.5 ft into the required 40 ft front yard setback. The subject application does not appear to alter this condition.

3.1.4. §270-54C –Side Yard

The existing dwelling encroaches ±14.3 ft into the required 20 ft side yard setback (left). The subject application does not appear to alter this condition. The application will expand the dwelling by connecting the proposed car port to the existing dwelling. The dwelling will encroach ±6.5 ft into the required side yard setback (right).

3.1.5. §270-54E – Lot Area

The existing lot area is ±15,183 sf less than the required 20,000 sf area. The subject application does not appear to alter this conditions.

3.1.6. 270-54F – Lot Width

The existing lot width is ±41.84 ft less than the required 100 ft width. The subject application does not appear to alter this condition.

6. The subject property is currently developed with a two-story dwelling, detached garage and associated amenities. The application and plans propose to construct additions and

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renovations to the existing dwelling (including rear two-story addition and side attached car port). The Applicant is seeking variance relief for conflicts with §270-37A, §270-54A and §270-54C of the Code.

7. The applicants and their professional engineer, Mr. McClelland, P.E., were sworn and testified as to the existing conditions of the property. They testified that the property was a non-conforming lot, in that it was undersized and narrow. The dwelling is skewed on the lot. The home was built before the Borough zoning ordinances were adopted. The setbacks are also deficient. The applicant proposes to build a two story addition to the rear of the home, and to construct a car port connected with the home, since the detached garage is set in the rear of the yard away from the home. The car port will not be enclosed, and will allow unloading from the garage away from the elements. There will be no exacerbation of the existing, non-conforming conditions. Applicant Vincent Pergola testified that he has three daughters and wants to remain in the home by adding a new bedroom, new bathroom and expanded living space. He also wants to revamp and upgrade existing living space with new sub-flooring. He also testified as to the topography of the site, in that the rear of the property slopes drastically away and down from the structure. By adding the addition to the rear, he is keeping the existing roofline. He has explored other remedies which would not invoke a height variance but none were as suitable to the site as the application as proposed.

The applicant's engineer testified as to the existing conditions, and non-conformities on site. The front of the property is flat, and there is a drop off in the rear yard. The existing roof peak shall remain, and the height of the house will increase, but only due to the slope and grade in the rear of the lot. He also testified as to the covered porch and car port which will not be enclosed. He testified that the addition would meet other bulk requirements, including front and rear setbacks, and that the addition/renovation was contemplated to upgrade the home and better accommodate the applicant's family. Any improvements on the property would require variance relief, due to the pre-existing non-conforming conditions. It was noted that the property is in an older section of the Borough, with an oddly shaped and undersized lot. The house structure is also located off-center on the lot, with a severe grade differential from the front to the rear. The addition which implicates the height variance, would be in the rear of the structure, in the area with the maximum setback area. The addition is within FAR requirements and coverage requirements of the Code. The request for height variance relief was specifically testified to by the engineer. He explained that there were no better alternatives for accommodating the height, which would be 37.1 feet, where 35 is the height limit in the zone. However, he also testified that due to the extreme grading of the property, and the placement of the additional height in the rear of the structure, it would not be noticeable from the street or neighboring properties. In fact, the grading created a unique situation which minimized the appearance of the enhanced height. There was adequate screening on the side of the property with existing landscaping, and the application did not call for the removal of any significant existing buffer screening or trees on the property. The addition would be aesthetically pleasing to the property, maintain the classical and historical appearance,

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consistent with the existing style and design of the premises, functional for the family and shielded from neighbors by existing vegetation and open space which would remain. The engineer also testified that there would be no impact on any surrounding properties or the zone, as a new seepage pit would be added, and since there would be no expansion of the presently existing non-conforming condition in connection with rear or front yard encroachments. As such, the benefits of the variance relief would outweigh any detriments. Various alternatives were reviewed, especially with regard to the height variance, and the application as presented was deemed the best alternative for development.

8. Borough Engineer, Michael Vreeland, P.E. reviewed the submissions by the applicant and prepared a Memorandum dated April 4, 2022. 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. The applicant specifically agreed to incorporate the recommendations of the Borough Engineer's review letter and testimony into the renovation plans.

9. One member of the public, the direct adjacent neighbor, appeared in connection with the application and expressed support for the application and attendant variance relief.

**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, the applicant's professional 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 odd shape of the property, the extreme natural grading

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of the property, the placement of the home on the lot, and the undersized condition and undersized width of the lot relative to the Code and the AA Zone (N.J.S.A. 40:55 D-70C.(1)), which are all deemed hardships by the Board. It is specifically determined by the Land Use Board that the request for the height variance was reviewed and approved solely due to the nature of the natural grading and severe elevation change present on the lot, and that this is a unique characteristics of this property and this application which is dissimilar to other properties in the Borough.

**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 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, so as not to negatively impact any surrounding properties, and comply with points 4.1 through 4.4.5 of Mr. Vreeland's April 4, 2022 review letter.
- 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

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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.

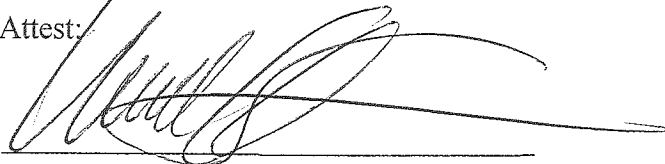
Approved:

ALLENDALE LAND USE BOARD

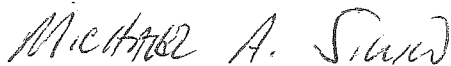


KEVIN QUINN, Chairman

Attest:



JOSEPH DALOISIO, SECRETARY



Adopted: May 18, 2022