

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

DATE: October 20, 2021

RESOLUTION # LUB 21-19

Carried Defeated Tabled

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			✓			

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LAND USE BOARD OF THE BOROUGH OF ALLENDALE
RESOLUTION APPROVING
APPLICATION FOR VARIANCE FOR
DARIUS POKOJ
BLOCK 1703, LOT 11
(a/k/a 146 PARK AVENUE)

WHEREAS, the applicant, **DARIUS POKOJ**, the owner of the property located at 146 Park Avenue, known as Block 1703, Lot 11 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 August 19, 2021 for approval of variance relief for proposed demolition of existing structure and construction of a new house on the premises, which is located in the A zone, from the Allendale Code, Zoning; and

WHEREAS, the subject property is a ± 14,524.6 SF (0.33 Acres) corner lot bounded by Park Avenue to the East, Third Street (paper street) to the North and Mallinson Street to the West. The site

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is currently developed with a 2.5 story single-family dwelling, detached garage and associated amenities; and

WHEREAS, the application and plans specifically seek approval to raze the existing dwelling and shed to construct a new 2.5 story single-family dwelling with attached garage and associated driveway. ~~The existing detached garage located in the northwestern corner of the property is to remain; and~~

WHEREAS, the application seeks variance relief since he filed an application for a Zoning Permit which was denied by the Code Enforcement Official via letter dated July 20, 2021; and

WHEREAS, the application seeks specific variance relief for side yard encroachment; exceeding the floor area ration (FAR); and corner lot restrictions; and

WHEREAS, the Land Use Board considered the matter at the September 13, 2021 regular meeting of the Land Use Board at which time the applicant 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 146 Park Avenue, known as Block 1703, Lot 11, on the Tax Map of the Borough of Allendale. The property is located in the A residential zone. The application was in evidence.
3. As part of the application, the applicant submitted Architectural Plans prepared by Puzio Architects, dated June 2, 2021 with last revision date July 14, 2021; Property Survey prepared by Lakeland Surveying, dated March 10, 2021, various photographs, drawings, maps and correspondence. These plans and exhibits were in evidence and reviewed and examined by the members of the Land Use Board.

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4. Borough Engineer, Michael Vreeland, P.E. reviewed the submissions by the applicant and prepared a Memorandum dated September 10, 2021. 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 A residential zone and has several pre-existing, non-conforming condition, due to the structure in place, boundaries of the lot and proposed new construction, as follows:

§270-22 – Corner Lots: When a corner lot is bounded by more than one street, the front yard requirements for each street shall meet the front yard requirements for the zone. The plans and application indicate the proposal will encroach ± 19.8 ft into the required 35 ft Third Street front yard setback.

§270-64C(2) – Side yard setback: The plans indicate a (GBA) of 3,786 sq. feet for which a 22.7 ft enhanced side yard setback is required. The plans and application indicate the proposal will encroach ± 7.7 feet into the required side yard setback.

§270-63 – Floor Area Ratio: The existing detached garage needs to be included in the site Gross Building Area calculation and the plans will need to be updated. Based on the Zoning Official's correspondence the proposal will exceed the allowable Floor Area Ratio by $\pm 2\%$.

6. The application and plans specifically seek approval to raze the existing dwelling and shed to construct a new 2.5 story single-family dwelling with attached garage and associated driveway.

7. The applicant was sworn and testified as to the existing conditions of the property, and that the applicant was seeking to raze the current structure, which is vacant and in deteriorating condition, and construct a new larger home on the property. The entire property would be redone to accommodate an approximately 5000 square foot home which would be consistent with the neighborhood and several improvements, including the addition of a functional garage, where none had existed in the past. Any improvements on the property would require variance relief, due to the shape and size of the property, and the corner lot condition caused by the paper street to the north. It was noted that the property is oddly shaped, like a bow, with an indent in the middle of the southern property line. The new house structure was initially proposed in the plans to be centered on the lot, which would cause the side yard encroachment to remain. However, after discussion with the Land Use Board, the applicant agreed to move the home towards the north (and the paper street) so as to eliminate the side yard encroachment. To this end, the lot would be brought more in conformance with existing Borough zoning code. The applicant testified that all existing landscaping would necessarily be removed, but that new landscaping would be added as part of the construction, which would provide adequate and appropriate screening on the sides and rear of the property. The new structure would be aesthetically pleasing to the property, consistent

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with the existing style and design of the neighborhood. The applicant 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. The applicant also agreed to improve the sidewalks in the front of the property on Park Avenue, and would work with the Borough Engineer to alleviate stormwater runoff from the property.

8. Borough Engineer, Michael Vreeland, P.E. reviewed the submissions by the applicant and prepared a Memorandum dated September 10, 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. The applicant specifically agreed to incorporate the recommendations of the Borough Engineer's review letter and testimony into the demolition and constriction plans.

9. No members of the public appeared in connection with the application.

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 demolition and reconstruction as proposed in the application, and amended through testimony at the public hearing; 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 variance, due to the unique nature of the property, namely the odd shape of the property, and the presence of a paper street to the north which converts the property into a corner lot with the attendant zoning requirements (N.J.S.A. 40:55 D-70C.(1)), which are deemed hardships by the Board. There would be no substantial determinant to the public good,

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and the application will not substantially impair the intent and purpose of the zone plan and zoning ordinance, since the removal of the vacant, deteriorating premises on the property and the construction of a new home which would be consistent with the neighborhood will be a benefit to the zone and zoning plan.

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, including any adjustments to drainage, connection with seepage pits, stormwater management and soil movement, so as not to negatively impact any surrounding properties.
- C. Applicant shall comply with the "Technical Comments" contained in the Borough Engineer's letter dated September 10, 2021.
- D. Applicant shall improve the sidewalk on Park Avenue fronting the property, in consultation with the Borough Engineer.
- E. Applicant shall eliminate the proposed side yard encroachment in the application through the reconfiguration of the proposed new structure on the lot, in accordance with the testimony before the Land Use Board.
- F. 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 amended through testimony,

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and the testimony of the applicant 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

Adopted: October 20, 2021