

RESOLUTION
 LAND USE BOARD
 BOROUGH OF ALLENDALE
 BERGEN COUNTY, NJ

DATE: December 20, 2023

RESOLUTION: 23-24

Land Use Board	Motion	Second	Yes	No	Abstain	Absent
Bergen		✓	✓			
Putrino					✓	
Kistner					✓	
Daloisio	✓		✓			
Dalo			✓			
Sirico			✓			
Wilczynski					✓	
Warzala, Alt. 1			✓			
Butler, Alt. 2			✓			

Carried Defeated
 Tabled

RESOLUTION 23-24

LAND USE BOARD OF THE BOROUGH OF ALLENDALE
 RESOLUTION APPROVING
 APPLICATION FOR VARIANCE FOR
 ROBERT & JENNIFER GERARD
 BLOCK 2007, LOT 5
 (a/k/a 14 BIRCH STREET)

WHEREAS, the applicant, ROBERT & JENNIFER GERARD, the owners of the property located at 14 Birch Street, known as Block 2007, Lot 5, 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 October 23, 2023 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 an addition and renovations to the existing dwelling, including a proposed second story addition and first floor renovation; and

WHEREAS, the application seeks specific variance relief for lot size and rear yard setback; and

WHEREAS, the Land Use Board considered the matter at the November 13, 2023 regular meeting of the Land Use Board at which time the applicant and their retained professional 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 14 Birch Street, known as Block 2007, Lot 5, on the Tax Map of the Borough of Allendale. The property is currently developed with a single-family one-story dwelling and associated amenities. The property is located in the AA residential zone. The application was in evidence.
3. As part of the application, the applicant submitted a Land Use Application and associated documents dated October 23, 2023; Letter from Donald Rubin, Architect to Anthony Hackett, dated August 26, 2023; and Architectural Plan Set (including copy of survey), entitled, "Second Floor Addition-Gerard House". The plans prepared by Donald Rubin, Architect, consist of 14 sheets and are dated August 26, 2023. Additional photographs consisting of 2 sheets were submitted by the applicant at the public hearing and marked as Exhibit A-1 & A-2.

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4. Variance relief is required because this property located in the AA residential zone has pre-existing, non-conforming conditions, due to the undersized lot size and inadequate rear yard setback.

Minimum Lot Area. The zoning table indicates the existing 12,000 sf lot is less than the required 20,000 sf. The application does not alter this condition.

Rear Yard Setback. The zoning table indicates the existing rear yard setback of 19.8 feet is less than the required 50 feet setback. The application does not alter this condition.

5. The subject property is commonly known as 14 Birch Street. The property is currently developed with a single-family one-story ranch dwelling and associated amenities. It is a corner lot. The property is located within the Borough's AA Residence Zone District and is surrounded by residential dwellings and uses. The application and plans propose an addition and renovations to the dwelling, including a second story addition above the existing footprint.

6. The applicant and their architect, Donald Rubin, AIA, were sworn and testified as to the existing conditions of the property. They testified that the lot was significantly undersized in area and there are existing non-conformities. The hardship is the significant undersized condition of the lot and the existing rear yard encroachments. Neither of these existing conditions will be exacerbated by the proposed addition. The applicant is proposing an addition and renovation which would include a second story addition above the existing footprint of the dwelling. The FAR is well below that permitted, and the proposed height is well below what could be built on the site. There will be no change to the rear yard existing encroachment. There will be new siding and design elements associated with the addition which will be an aesthetic improvement to the home. Landscaping disturbances will be minimal, and any landscaping removed will be replaced. No flood lights are to be installed. Any improvements on the property would require variance relief, due to the pre-existing non-conforming condition. The addition would be minimal, aesthetically pleasing to the property and consistent with the neighborhood. There would be no negative impact on surrounding properties or the neighborhood, and visible impact would be minimal, as the entirety of the addition is above the existing footprint and is not excessive. The side yards are conforming and will remain so. The applicant and the professional testified that they considered other options, but that the proposed addition was the least intrusive and minimal option that was suitable for their needs. There would also be no increase in impervious coverage and no negative impact on water run-off/stormwater management, and they would work with the Borough Engineer to alleviate any impacts to neighboring properties.

7. One member of the public appeared in connection with the application and raised issues as to privacy and the height of the proposed addition.

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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 second story 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 applicants and their professional in connection with the testimony that the applicant is entitled to variance relief, due to the unique nature of the property, namely the undersized lot area, and the pre-existing non-conforming condition in the rear yard, which are all deemed hardships by the Board. In addition, the hardships associated with the present condition of the property and premises outweigh the negative criteria to the Borough zoning ordinances and the zone plan and neighborhood. Further, the addition will be aesthetically pleasing, it will conform with FAR regulations, and will not be obtrusive due to the placement and location of the proposed improvements and minimal existing encroachments which will not be expanded; and

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.

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B. Applicant and 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 to minimize and address any stormwater or drainage issues.

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 and their 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 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



MICHAEL SIRICO, Chairman

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Attest:



Melissa Begen, Vice Chairwoman

Adopted: December 20, 2023