

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

DATE: August 24, 2022

RESOLUTION# LUB 22-20

Carried Defeated Tabled

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

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LAND USE BOARD OF THE BOROUGH OF ALLENDALE
RESOLUTION APPROVING
APPLICATION FOR VARIANCE FOR STEVEN KANG & TATIANA
LITVINENKO
BLOCK 1407, LOT 15
(a/k/a 137 MACINTYRE LANE)

WHEREAS, the applicants, STEVEN KANG & TATIANA LITVINENKO, the owners of the property located at 137 MacIntyre Lane, known as Block 1407, Lot 15 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 July 6, 2022 for approval of a variance for a proposed reconstruction and addition to the premises, including removing and replacing an existing, non-conforming deck, which is located in the AAA residential zone, from the Allendale Code, Zoning; and

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WHEREAS, the application seeks a variance since the property addition/deck reconstruction as proposed would result in a deficient side-yard setback. It is noted that the deficient side-yard setback is pre-existing non-conforming.

WHEREAS, the application specifically seeks approval to replace the pre-existing rear deck and to replace the deck with a new and expanded deck, which will include a usable area below the deck, and

WHEREAS, the application and plans were submitted and the Land Use Board considered the matter at the July 20, 2022 meeting of the Land Use Board at which the applicant appeared and testified; and

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 137 MacIntyre Lane, known as Block 1407, Lot 15, on the Tax Map of the Borough of Allendale. The property is located in the AAA residential zone.
3. As part of the application, the applicant submitted the Land Use Board application packet, progress prints, maps, a survey, 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 provided testimony relative to the application to the Land Use Board at the meeting.
5. Variances are required because this property located in the AAA residential zone, is pre-existing non-conforming. In addition, the proposed reconstructed deck will encroach into the required side yard setback, similar to that which presently exists.

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6. The proposed improvements/addition will replace and reconfigure the deck along the northeast side of the dwelling, and provide that a portion under the deck which will be waterproofed and improved with a patio.

7. At the hearing, the applicant, Steven Kang, was sworn and testified as to the existing conditions of the property, and that the applicants were seeking to reconstruct their existing deck which was deteriorating. The deck would be made slightly larger; however it would not encroach further into the existing side yard setback. The deck will have new footings and new foundation. The property sits on a very deep and wooded rear yard and there is a stream in the back portion of the yard. The nearest neighbor is over 85 feet away from the deck. He also testified as to the existing property conditions, such as the unique shape of the lot. Any replacements and improvements on the property would require variance relief, due to the pre-existing non-conformity on the side yard. The new deck would be aesthetically pleasing to the property, functional for the family and would be shielded from neighbors on the sides of the property by existing vegetation and buffer areas which would remain.

8. No member of the public appeared in connection with the public hearing on 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 for reconstruction of the deck on the property, and to permit the relief 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 the Borough Engineer, in connection with the testimony that the applicant is entitled to a "hardship" variance, due to the unique nature of the property, namely the unique shape of the property and placement of the existing structure, and the pre-

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existing non-conforming nature of the property. The application and variance would improve the property and improve the aesthetics and functionality of the property, without any impact on the surrounding properties or the zone. 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. In addition, the variance requested will not be obtrusive due to the lack of nearby neighbors in the rear, and the location of the proposed deck. In addition, the deck architecture will be consistent with the present architecture at the premises and in the neighborhood, and it will be an aesthetic improvement; 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 permits, 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 obtained and paid for in full to the Borough of Allendale by the applicant, including a soil movement permit (if required).
- B. Applicants shall work with the Borough Engineer in the event that any field adjustments shall be required for the proper construction of the proposed deck, including any adjustments to drainage and stormwater management, so as not to negatively impact any surrounding properties.
- C. Applicant shall submit an "As-Built" survey prior to requesting a Certificate of Occupancy.

BE IT FURTHER RESOLVED construction shall proceed in accordance with this Resolution and the plans marked in evidence, the testimony of the applicants, and in accordance with all applicable State, County and Municipal codes, ordinances, rules and regulations.

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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.

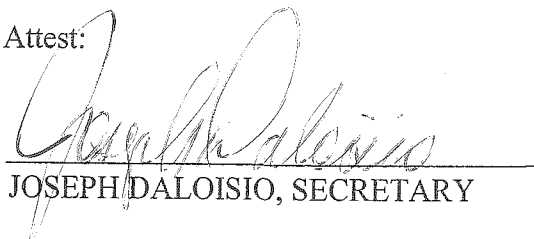
Approved:

ALLENDALE LAND USE BOARD



KEVIN QUINN, Chairman

Attest:


JOSEPH DALOISIO, SECRETARY

Adopted: August 24, 2022