



THE BOROUGH OF ALLENDALE

N E W J E R S E Y

500 WEST CRESCENT AVENUE, ALLENDALE, NJ 07401

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201-818-4400

LINDA GAROFALO
LAND USE ADMINISTRATOR
(201) 818-4400 x212
lindagarofalo@allendalenj.gov

July 18, 2024

Mr. Andrew Kohut
Wells, Jaworski & Liebman, LLP
12 Rt. 17 North, PO Box 1827
Paramus, NJ 07653-1827

Re: Land Use Board File No. LUB 2024-07
115 W. Crescent Avenue, Allendale, New Jersey 07401
Block: 910 Lots: 5 & 6

Dear Mr. Kohut:

In accordance with N.J.S. 40:55D-10h, enclosed is a certified copy of a Resolution of the Allendale Land Use Board, passed at the June 19, 2024 Meeting, granting Subdivision approval. Copies have also been forwarded to the Allendale Construction Code Office.

Also attached is a copy of a Proof of Publication Affidavit showing that the Notice of Decision was published in accordance with N.J.S. 40:55D-10i.

If you have any questions, please do not hesitate to call.

Sincerely,

Linda Garofalo

cc: M. Vreeland

Borough of Allendale, New Jersey
Office of the Land Use Administrator

PROOF OF PUBLICATION AFFIDAVIT

Proof of Publication

Date: July 18, 2024

As the duly appointed Land Use Administrator for the Borough of Allendale, in the County of Bergen, State of New Jersey, I, LINDA GAROFALO, hereby certify that the attached Public Notice was published in the July 18, 2024 issue of the The Record newspaper.



LINDA GAROFALO
Land Use Administrator

**NOTICE OF DECISION
LAND USE BOARD
BOROUGH OF ALLENDALE**

PLEASE TAKE NOTICE that at a Regular Meeting of the Allendale Land Use Board held on June 19, 2024 the Board took the following action:

Approval was granted by Resolution LUB 24-14 on Application File No. LUB 2024-07, to 115 West Crescent Avenue for Subdivision approval. The property is located at 115 West Crescent Avenue, Allendale, NJ 07401, Block 910, Lot 5 & 6 on the Tax Assessment Map of the Borough of Allendale.

The proceedings and all related documents may be inspected in the Office of the Municipal Clerk, Allendale Municipal Building, 500 West Crescent Avenue, Allendale, New Jersey 07401 during regular business hours Monday through Friday 9:00am to 4:30pm.

By order of the Land Use Board.

Linda Garofalo
Land Use Administrator

Record/Herald News 7/18/2024
Fee: \$23.76 (27) 10374574

RESOLUTION
 LAND USE BOARD
 BOROUGH OF ALLENDALE
 BERGEN COUNTY, NJ

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Land Use Board	Motion	Second	Yes	No	Abstain	Absent
Bergen	✓		✓			
Warzala			✓			
Putrino			✓			
Agugliaro			✓			
Daloisio		✓	✓			
Dalo						✓
Sirico			✓			
Wilczynski						✓
Butler-Alt.#1			✓			
Conte-Alt. #2						✓

Carried Defeated Tabled

RESOLUTION LUB 24-14

LAND USE BOARD OF THE BOROUGH OF ALLENDALE
 RESOLUTION APPROVING
 APPLICATION FOR MINOR SUBDIVISION AND VARIANCE FOR
 115 WEST CRESCENT LLC
 BLOCK 910, LOTS 5 & 6
 (a/k/a 115 WEST CRESENT AVENUE)

WHEREAS, the applicant, 115 WEST CRESCENT LLC, the owner of the property located at 115 West Crescent Avenue, known as Block 101, Lot 7, on the Tax Map, in the Borough of Allendale, County of Bergen and State of New Jersey (the “Property”), applied to the Land Use Board of the Borough of Allendale in an application dated April 30, 2024 for approval of variance relief from the Allendale Zoning Code and to obtain minor subdivision of merged lots 5 & 6 to reflect the current tax map; and

WHEREAS, the Applicant was represented by counsel, Mr. Andrew Kohut, Esq. of Wells,

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Jaworski, and Liebman, LLC; and

WHEREAS, the proposal requires variance relief from certain bulk standards in the Allendale Code; and

WHEREAS, the application specifically seeks bulk variance relief from the minimum lot width requirements established for this zoning district (115 ft is required per Section 270-57(f) as noted herein); and

WHEREAS, the application and plans specifically seek approval to subdivide the existing lots 5 & 6 which are merged under common ownership; and

WHEREAS, the application was deemed complete and a hearing was conducted on June 19, 2024; and

WHEREAS, the Board Secretary announced that proper notice was provided for the hearing and the Board's jurisdictional requirements to hear and consider the application have been met; and

WHEREAS, notice of the public hearing was properly given by the Applicant in accordance with the applicable legal notice requirements; 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 to reach its decision:

1) The Property is located at 115 West Crescent Avenue, known as Block 910, Lots 5 & 6, on the Tax Map of the Borough of Allendale. The property is located in the A Residence Zone. The application and submissions are deemed in evidence in accordance with the Board's protocol and are not individually marked as such.

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2) As part of the application, the applicant submitted a Land Use Application and associated documents; Application for Variance Relief; Description of Proposed Structure or Use; Project Description Rider; Disclosure Statement for 115 West Crescent LLC; W-9 for 115 West Crescent LLC; a copy of Borough of Allendale Tax Account Detail Inquiry for 115 West Crescent Avenue for the Tax Year 2024 to 2024;

3) The Property is ± 1.49 acres and is located within the Borough's A Residence Zone District. The property is currently vacant and consists of two adjoining tax lots which have been merged under common ownership. The application and plans propose a minor subdivision of the existing merged lot, which shall mirror the current tax map showing lot 5 & 6 as separate lots;

4) WHEREAS, following a comprehensive opening statement by Applicant's counsel to introduce the application and forthcoming proofs, Applicant's counsel initially called Mr. Thomas Miller, a licensed land surveyor, and placed his background and qualifications on the record, which qualifications were accepted by the Board.

5) Miller testified that variance relief is required because the Property is located in the A Residence Zone and the application proposes a deviation from the required bulk requirements as follows:

§270-57(F) – Minimum Lot Width. The lot width for both lots shall be 100 ft. for Lot 5 and 101.56 ft. for Lot 6 where 115 ft. is required by the Code, to accommodate the subdivision of an oversized merged lot.

- a. Mr. Miller testified that no other variances were necessary. He stated that Lots 5 and 6 would comply with the Borough's code as to overall size/area required for a lot in this district.
- b. Mr. Miller further testified that the Applicant will further comply with the Borough engineer's further requirements set forth in his review correspondence and make the necessary changes to the applicant's plans to address them, if the application is approved.
- c. The applicant's surveyor was asked why the applicant chose to proceed in this manner instead of having one (1) lot fully conforming, and it was the witness's response that the subdivision was to track or follow the existing tax maps instead of altering them.
- d. The attorney responded to a question as to how the subdivision would be perfected and the response given was that it would be perfected by deed.

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- e. At the conclusion of Mr. Miller's testimony, a citizen asked about whether the property owner contributed to the flooding of this property by making alterations to prevent the natural flow of water. An objection was interposed to this question and sustained.

6) Next, the applicant's attorney called Ms. Afton Savits, a licensed civil engineer whose background and credentials were placed on the record and accepted by the Board. She reviewed the survey and subdivision plan and discussed the existing conditions versus proposed site conditions which result if subdivision approval is granted. The witness stated that the proposed subdivision would replicate or even improve existing conditions, but acknowledged that she did not do a wetlands analysis or any mapping as part of her engagement. The public had no questions.

7) Next, the applicant's counsel called Ms. Spach Trahan, a professional planner who set forth her background and qualifications, including licensing in New Jersey as a professional planner, and whose qualifications were accepted by the Board. Essentially, the applicant's planner discussed the applicant's obligation to satisfy the Positive/Negative Criteria of the Municipal Land Use Law to obtain the requisite variances for deficient lot widths relating to the subdivided lots.

- a. She referred to the prior testimony of the surveyor and engineer and observed that even in the Borough's most restrictive zone, the applicant's lot is 1.5 times the size of a conforming lot and therefore is significantly oversized no matter what residential zone the property is located in. The 200 S.F. of lot frontage is wide, its depth is very deep for this area of town, and its width, depth, and area is oversized. On lot 5 the frontage width proposed is 100 ft. and on lot 6, the lot frontage proposed is 101.56 ft.
- b. In her professional opinion, the applicant meets the standard for obtaining a "C-2" variance in that the variances would advance the purposes of zoning and their benefits would outweigh any substantial detriment, if granted. She introduced Exhibit A-1, which she prepared depicting the deficient lot area widths in the A Zone and where the subject property was located, respectively.
- c. Many lots are undersized on the street and accommodate single family dwellings extremely well.
- d. The witness then proceeded to discuss the Purposes of zoning set forth in the MLUL Section 2 that are advanced by the application, including Purposes A, E, and O.
- e. She also concluded that there would be no substantial detriment if the variances were granted because the subdivision would be harmonious and in compliance with

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all other standards in the A Zone, based upon the projected footprints of the proposed residential dwellings. Applicant's proposal is also consistent with the Master Plan and Zoning Ordinance in her opinion, in that the density is appropriate for this zone; the subdivision would be similar to other lots in the area except here, the lots are deeper.

- f. The proposal is consistent with and based on the tax lots and the existing neighborhood development pattern.
 - g. Visually, the proposed subdivision would not be out of character with the immediate "streetscape" or neighborhood.
 - h. The proposal represents a better zoning alternative than serving as the site of an extremely large residence.
 - i. The planner testified that the proposed application essentially was similar to the facts and conclusion in the Kaufman v. Planning Board, 110 N.J. 551 (1988).
 - j. The Board then permitted the witness undergo cross-examination by a citizen and then permitted public comments at the conclusion of testimony which included the concerns expressed that permitting two (2) homes where one (1) currently exists would not be desirable, as well as concerns regarding topographical features that might be impacted by stormwater flowing from the center and rear of the property. The applicant herself, Ms. Cindy Schottanes indicated that the property was under contract for two (2) homes and explained the purchasers understood and would adhere to the requirements of the Borough's restrictions.
 - k. The subdivision was intended to purely mirror the existing tax map.
- 8) Following a motion and second, the Board voted unanimously to approve the minor subdivision and variances sought, since the lots are basically already there and residential construction would enhance the property.
- 9) The testimony and representations of the applicant and its witnesses shall be binding upon the applicant and its successors, as if more fully set forth herein.
- 10) In approving the application, the conditions set forth in the engineering report of the Board's engineer shall be conditions of approval.
- 11) In addition, the following conditions must be met by the applicant:

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- a. The payment of all real estate taxes relating to the Property.
- b. The payment of all outstanding fees and assessments relating to the Property.
- c. The Applicant must make current all escrow accounts with the Borough of Allendale Land Use Board and ensure that the escrow account continues to contain sufficient funds, or this approval becomes void. The failure of the Applicant to maintain sufficient escrow funds within thirty (30) days of receipt of a deficiency notice shall result in the voiding of this approval.
- d. Any final Certificate of Occupancy shall not be issued until all escrow or outstanding fees from the Borough of Allendale are paid and made current.
- e. The Applicant must obtain and furnish the Board Secretary with all necessary approvals from outside agencies, local, county, state and/or federal.
- f. The terms and conditions as set forth in this Resolution shall be incorporated and any other governmental approvals, as if set forth at length. The Applicant shall transmit a copy of the within Resolution to all other governmental agencies having jurisdiction over this matter and from which Applicant seeks approval.

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.

BE IT FURTHER RESOLVED that notice of this decision shall be published in the official newspaper of the Borough of Allendale.

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Approved:

ALLENDALE LAND USE BOARD



MICHAEL A. SIRICO, Chairman

Attest:



JOSEPH DALOISIO, SECRETARY

Adopted: July 17, 2024