

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

DATE: October 18, 2023

RESOLUTION# LUB 23-21

Carried Defeated Tabled

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

RESOLUTION 23-21

**LAND USE BOARD OF THE BOROUGH OF ALLENDALE
RESOLUTION APPROVING
APPLICATION FOR VARIANCE FOR
RUSSELL & LISA YOUNG
BLOCK 1901, LOT 11
(a/k/a 101 EAST ORCHARD STREET)**

WHEREAS, the applicant, RUSSELL & LISA YOUNG, the owners of the property located at 101 East Orchard Street, known as Block 1901, 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 7, 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 renovation requires variance relief from bulk standards in the Allendale Code; and

WHEREAS, the application and plans specifically seek approval to construct renovations to the existing dwelling foundation, including renovations to construct a new center hall colonial style home on the site of the present foundation, and to expand the footprint and raise the height of the structure in place; and

WHEREAS, the application seeks specific variance relief for side yard setback; and

WHEREAS, the Land Use Board considered the matter at the September 20, 2023 regular meeting of the Land Use Board at which time the applicant and professional architect 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 101 East Orchard Street, known as Block 1901, Lot 11 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 Land Use Application and associated documents; August 7, 2023 Allendale Code Enforcement Office correspondence (Anthony Hackett) to Russel & Lisa Young denying zoning application; and a Plan Set entitled, "Young Residence, 101 E. Orchard Street, Allendale, NJ,". The plans prepared by Z+ Architects, LLC (Mary Fitzpatrick Scro, AIA) consist of 18 sheets and are dated August 2, 2023.

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4. Borough Engineer, Michael Vreeland, P.E. reviewed the submissions by the applicant and prepared a Memorandum dated September 16, 2023. 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 has pre-existing, non-conforming conditions, as follows:

§270-54E – Minimum Lot Area. The zoning table indicates the existing ±22,044 sf lot area is less than the required 26,000 sf. The application does not appear to alter this condition.

§270-54F – Minimum Lot Width. The zoning table indicates the existing ±115 ft lot width is less than the required 130 ft. The application does not appear to alter this condition.

§270-64B – Side Yard Setbacks. Existing gross building area (GBA) does not trigger the enhanced side yard setback requirements. The existing dwelling's ±17.3 ft right setback is less than the required 20 ft (existing left setback exceeds requirement). The proposal increases the GBA and triggers the enhanced side yard setback requirements. The zoning table indicates the required enhanced side yard setback is ±34.87 ft. The proposal will encroach ±17.57 ft into the enhanced right setback. It also appears that more than ±30% of the proposed dwelling and deck will encroach into the enhanced right setback.

6. The subject ±0.506-acre property is currently developed with a single-family dwelling and associated amenities. The application and plans propose to remove the existing structure and construct a new dwelling with associated amenities. The application and plans request relief for conflict with §270-64B(2) (side yard setback).

7. The applicant's architect, Mary Fitzpatrick Scro, AIA, was sworn, accepted as an expert in the field of architecture and testified as to the proposed renovation. The property is presently non-conforming due to being undersized for the zone, as well as narrower than required for the zone. She testified as to the existing conditions of the property and the existing structure. The applicant proposes to remove the existing structure, rebuild on and expand the existing foundation, and add additional space to create a new center hall colonial style home. The proposed renovation meets requirements for height, front and rear yard setbacks, left yard setback and FAR. The sole variance sought is for right side yard setback. The side yard encroachment is not expanding, it is merely a factor of the enhanced side yard setback requirement due to the increase in building area. The present and proposed right side yard setback is 17.3 feet. Due to the proposed renovation, the enhanced side yard setback requirement is 34.9 feet. So while the proposed renovation will not further encroach into the side yard, it will be a deviation from the lot requirements and building will take place in the encroachment, due to the enhanced side yard setback requirement in light of the increased building coverage. To alleviate the encroachment, the primary additional bedrooms and construction will be on the left side of the home, where the

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setback is in compliance with the requirements. Also, the encroachment area is adjacent to the driveway area of the adjoining lot. She also testified that the renovation would be an improvement to the aesthetics that presently exist, consistent with the renderings submitted with the application, and in keeping with the aesthetics and style of homes in the neighborhood. Six trees are to be removed as part of the renovation, but landscaping will be added, and trees will be planted by the applicant at the completion of the renovation. Existing trees in the rear of the lot will remain. No other variance relief is requested.

8. Ms. Scro further testified that this is a hardship C1 variance request. Any improvements on the property would require variance relief, due to the pre-existing non-conforming conditions, i.e., lot size and lot width. The addition would be aesthetically pleasing to the property and consistent with the neighborhood. The vegetation at the rear of the property is to remain, which will lessen any impact of the addition to surrounding properties. Neither additional nor obtrusive lighting is proposed.

9. Borough Engineer, Michael Vreeland, P.E. reviewed the submissions by the applicant and prepared a Memorandum dated September 16, 2023. 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.

10. 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 renovation 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's professional and the Borough Engineer, in connection with the testimony that the applicant is entitled to variance relief, due to the unique nature of the

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property, namely the pre-existing non-conforming conditions, namely the narrowness of the property and the undersized lot area, which are 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

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 professionals shall work with the Borough Engineer in the event that any field adjustments shall be required for the proper construction of the proposed renovation within Zone requirements, and so as not to negatively impact any surrounding properties and to minimize and address any stormwater or drainage issues, and comply with Mr. Vreeland's September 16, 2023 review letter, specifically points 4.1 through 4.7 and 5.1 through 5.5.
- 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.

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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



MICHAEL SIRICO, Chairman

Attest:



Melissa Bergen, Vice Chairwoman

Adopted: October 18, 2023