

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

DATE: November 17, 2021

RESOLUTION# LUB 21-21

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			✓			

Carried Defeated Tabled

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LAND USE BOARD OF THE BOROUGH OF ALLENDALE
RESOLUTION APPROVING
APPLICATION FOR VARIANCE FOR SCOTT & KIMBERLY ROSNER
BLOCK 1403, LOT 23
(a/k/a 76 CANAAN PLACE)

WHEREAS, the applicant, SCOTT & KIMBERLY ROSNER, the owners of the property located at 76 Canaan Place, known as Block 1403, Lot 23 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 20, 2021 for approval of a variance for a proposed addition to the premises, which is located in the AA zone, from the Allendale Code, Zoning; and

WHEREAS, the application seeks a variance since the property addition as proposed would result in a 21.3 foot left yard setback, whereas a 27.3 foot setback is required, due to the

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enhanced setback requirements imposed by Code based on the square footage of proposed improvements.

WHEREAS, the application specifically seeks approval to amend the previous approval by this Board dated June 17, 2020 to permit a rear attached covered patio within the enhanced side yard setback. The plans also propose an expansion to the pool patio. It appears the improvements will result in ±947 sf of additional coverage; and

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

WHEREAS, the Land Use Board considered the matter at the October 20, 2021 regular meeting of the Land Use Board at which 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 76 Canaan Place, known as Block 1403, Lot 23, 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 following:

- Borough of Allendale Code Enforcement Office correspondence dated July 30, 2021;
- Application Forms and Associated Documents;
- Architectural Plans entitled, “Single Family Dwelling Renovation/Addition, at, Rosner Residence, 76 Canaan Place, Allendale, New Jersey” consisting of five (5) sheets. The plans prepared by Puzio Architects (Robert A. Puzio, AIA) are dated March 12, 2020 with a latest revision date of June 11, 2021;
- Plan entitled, “Site Plan, Rosner, Block 1403 – Lot 23, 76 Canaan Place, Borough of Allendale, Bergen County, New Jersey”. The plan prepared by McNally,

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Doolittle Engineering, LLC (M. Greco, PE) is dated February 26, 2020 with a latest revision date of August 19, 2021; and

- Photograph Exhibit

4. Borough Engineer, Michael Vreeland, P.E. reviewed the submissions by the applicant and prepared a Memorandum dated October 7, 2021. The Memorandum was in evidence and reviewed and examined by the members of the Land Use Board.

5. A variance is required because this property located in the AA residential zone, due to the structure in place and proposed enlarged floor area, requires minimum side yard setbacks of 27.3 feet. The proposed addition would result in a left-side yard setback of 21.3 feet, which presently exists and is pre-existing non-conforming.

6. The proposed addition will include a rear attached covered patio within the enhanced side yard setback. The plans also propose an expansion to the pool patio.

7. The applicant was sworn testified as to the existing conditions of the property, and that the applicant was seeking to amend the previous approval to add the rear attached covered but open patio and expand the pool patio. There would be an increase in impervious coverage. Construction of the previously-approved addition has already begun, and the applicants determined that they would like to add the covered patio element to the project. Any improvements on the property would require variance relief, due to the pre-existing non-conformity. The proposed covered patio would extend out the back of the home, but be open to the outside. Applicant testified that there was adequate screening on the side of the property with existing large arborvitae, and that the application did not call for the removal of any existing buffer screening or trees on the property. The improvements would be aesthetically pleasing to the property, functional for their family and would be shielded from neighbors by existing vegetation which would remain. The house materials and colors would be consistent with the existing structure and neighboring structures. There would be an improvement in the aesthetics. The applicant also testified as to the unique existing property conditions, such as the off-center placement of the existing structure in the front and side of the lot, and that the house was not perpendicular with the street. 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. He also testified that the existing non-conformity would not be significantly increased by the proposed addition, and that the increase in impervious coverage was *de minimus*.

8. Borough Engineer, Michael Vreeland, P.E. reviewed the submissions by the applicant and prepared a Memorandum dated October 7, 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, and testified that the proposed site plan amendment would have no negative impact on the zone nor visual impact from the street, and

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that existing drainage conditions were adequate. Mr. Vreeland also testified that the applicant was increasing the impervious coverage, and that the seepage pit calculations would be required to be submitted to insure they are sufficient. Applicant indicated on the record that they would submit seepage pit calculations, and comply with the requirements contained in points 4.1 through 4.4 of Mr. Vreeland's October 7, 2021 review letter.

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 for side-yard setback relief, and to permit the addition 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 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 off-center placement and skewed location of the existing structure in the extreme front and to the side of the lot, and the pre-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 placement and configuration of the primary structure on

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the lot, the location of the proposed addition in the rear of the home and shielding from the existing vegetation which will remain. In addition, the architecture will be consistent with the present architecture 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 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 his 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 and direct tie-in to existing inlet, so as not to negatively impact any surrounding properties, and comply with points 4.1 through 4.4 of Mr. Vreeland's October 7, 2021 review letter.

BE IT FURTHER RESOLVED construction shall proceed in accordance with this Resolution, the approved plans and drawings marked in evidence, the testimony of the applicants 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

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and shall publish a brief notice of the decision in the official newspaper, the cost of which shall be paid for by the applicant.

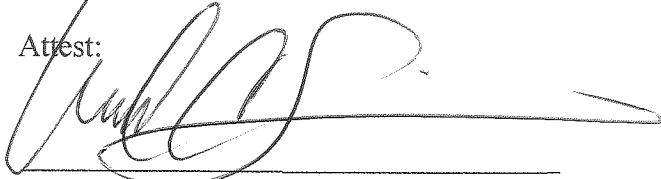
Approved:

ALLENDALE LAND USE BOARD



KEVIN QUINN, Chairman

Attest:



JOSEPH DALOISIO, SECRETARY

Michael A. Sirico

Adopted: November 17, 2021