

December 20, 2017

A regular meeting of the Allendale Board of Adjustment was held in the Municipal building on December 20, 2017. The meeting was called to order at 8:11 PM by Ms. Teng, Chairman, who announced that the requirements of the Open Public Meetings Act were met by the required posting and notice to publications. Ms. Teng announced that the Board Attorney Mr. Nestor needed to recuse himself due to an applicant this evening. Mr. Nestor's substitute for the evening was his associate Mr. Daniel Santarsiero, ESQ. The following members answered to roll call:

Present: Ms. Chamberlain, Ms. Hart, Mr. Manning, Mr. Sirico, Mr. Stephen, Ms. Teng.

Absent: Mr. Redling, Ms. Weidner. Mr. Jones arrived during the first application hearing as noted.

The first agenda item was approval of the November 15, 2017, Regular Session minutes. Ms. Teng asked for any changes or revisions to the minutes. Hearing no changes. Teng requested a motion to approve the minutes. On a motion from Mr. Manning, seconded by Mr. Sirico, to be approved as submitted. A roll call vote was taken.

In favor: Mr. Manning, Mr. Sirico, Mr. Stephen, Ms. Teng

Abstain: Ms. Chamberlain, Ms. Hart.

Next on the agenda was the hearing of applications. Ms. Teng requested to hear the application ZBA 2017-09, Laurie Morrison residing at 73 Franklin Turnpike, Allendale, Block: 2003, Lot: 6, for a fence variance (270-31-A). Laurie Morrison was sworn in to testify. Ms. Morrison had submitted an application to erect a six-foot fence in the rear yard specifically the section that borders NJ Transit, then along the side-yards along the property line finished off at the back corners of the residence. The hardship request was for the safety and protection of her two young children and her two new dogs, Australian Shepherds. As a new owner of this property, Ms. Morrison has discovered a significant amount of deer, coyotes, foxes and in order to protect her dogs and children, also from the curiosity of the train, she would like to have a fence for both the protection of her family and to deter the wildlife visiting her backyard. Ms. Teng opened the meeting to the public for any comments, questions, or concerns. Joanne Kitlas was sworn in for her public comment. A neighbor, on the same side as Ms. Morrison with one tax lot in between, residing at 45 Franklin Turnpike, Allendale. Mr. Jones arrived at this time. Ms. Kitlas concern was the applicant said the perimeter of the yard, not just a fence along the transit line. Ms. Morrison clarified that it was not the entire property, just the rear yard. Ms. Teng inquired if the applicant would consider lowering the fence to five feet on the sides of the property. Ms. Morrison was not in favor due to the safety concerns of her family and dogs. Ms. Kitlas informed the board that her view from her residence neighboring the fencing would impact their visual landscape. Ms. Kitlas had another concern was the type of fencing and color of the fence. Ms. Morrison testified that it would be a very high-quality white vinyl fence to ensure the safety of her family. Also, the additional fencing would remain around the pool, within the new enclosure once erected. The survey from Morgan Engineering was marked into evidence as Morrison-1 dated 5/23/17. Mr. Manning informed the applicant that the Zoning Board does not approve six foot fences unless it is bordering a railroad or industrial area. The code was recently altered to allow for a five foot fences in the borough code. Ms. Chamberlain agreed that the six-foot height would not be the problem along the NJ Transit on the property line, but the

side-yards and the location beginning from home should remain within the code at the height of five feet. Ms. Hart informed the applicant that if the fencing was offset from the property line by fifteen feet a variance would not be needed. Ms. Morrison again was not trying to be difficult but was very concerned about her two young children climbing a fence, and the wildlife would be a temptation for the dogs to chase in addition to the ability to scale the five foot fence. Also, there are many trees, some 300 years old on the property which she was reluctant to remove to accommodate a smaller area for six foot fencing. Ms. Morrison went on to explain how active and agile the children were, and not to underestimate their ability to climb though they were young they were exceptionally tall for their ages. Next to be sworn in was Mr. Ed Kitlas of 45 Franklin Turnpike, Allendale. He reiterated the statement of his wife that all views from their decks, windows, porch, have a full view of this backyard. The property has a wooded backyard is part of the L-Shape parcel next to Mr. Kitlas south of him, Lot 3. Also, in 46 years they never required a fence to raise their children. Mr. Kitlas noted on the tax map marked as M-2. The neighbor on tax Lot 3 had to raise their property to address the height issue of the house and now Mr. Kitlas is dealing with the water issues resulting from that berm. Again there was a clarification of the fence location, which is not the entire property just from the rear of the house to the rear of the property line. Photographs of the property were submitted into evidence and marked M-3 dated 12/20/2017. Ms. Morrison used the MLS listing, four-color photographs, and two black and white. Ms. Morrison stated for the record that they were an accurate representation of the property. Mr. Jones inquired if the fence would be tighten to the back corner walls of the home but Ms. Morrison advised that there is piping, storm drains, trees, and house structures. The most secure location to connect the fencing to the home was chosen specifically at these points due to the many obstructions on both the home and trees. Ms. Morrison requested if the fence could be scaled from six feet to five feet at the corners adjacent to the NJ Transit line. Mr. Stephen clarified for the applicant that without specific measurements it cannot be approved. In Ms. Morrison final statement, again stated the sole intention is for protection of her family. Ms. Tengi advised that if the application were for a five-foot fence on the side yards, a variance nor a hearing would be required. Ms. Morrison agreed to the six feet on the back property and the side of the home, then the side-yards at the five feet height, all within code. Ms. Morrison was very grateful and thanked everyone. No action was taken by the Zoning Board of Adjustment.

The next application, carried over from the November 15, 2017 meeting, ZBA 2017-06, Craig and Courtney Cagney for the balance of the bifurcated request variances for Minimum Front Yard Setback - Corner Lot (270-22), Minimum Rear Yard Setback (270-54D), Maximum Driveways - 2 (270-18B.4), Pre-Existing Non-Conforming Structure (270-37A), Fences (270-31). Mr. And Mrs. Cagney were sworn in to testify. The Cagney's are requesting that the application is carried through to the spring. Due to the financial hardship with the engineering plans to address the driveway and the fence, the Cagney's requested that the application would be bifurcated to finish the four-foot fencing on the remainder of the property boarding West Crescent Avenue. They would like to postpone any discussion of the driveway until the County has addressed the many safety issues along the road, the installation of a rock barrier to the corner of the property, along with new guard rails. Until then the Cagney's felt it prudent to carry the application again. Ms. Tengi asked if there were any changes to the plans which Mrs. Cagney said none at this time. Mrs. Cagney requested of the Board if the one application could be considered as two separate applications, one for fencing and another for the driveway in the spring. Ms. Tengi advised the applicants that unfortunately, this

could not be done. The explanation was because the application was submitted for a fence and a driveway as one application and the Board agreed to bifurcate the vote for the fencing as an exception to install the fence along Park Avenue and the property along the stream. Mrs. Cagney had an email from the County stating that it was not their jurisdiction to rule on fencing and it is a decision of the Borough. Ms. Hart inquired about the six-foot fence along the brook if that would also be extended to West Crescent Avenue at similar heights? They affirmed it would be with scaling down in height as it approached the street. Ms. Hart also inquired if the fence would be brought in ten feet from the property line. Ms. Cagney said they would bring the fence in at 10 feet away from the corner of the property, all at the height of four feet height. Mr. Manning verified that the police has no issue with the line of sight and safety if the four-foot fence, then you can put it as they would like to install on the property line along West Crescent Avenue. Ms. Cagney confirmed there was no issue with the line of sight from the Allendale Police Department after investigating if the fence would be a safety concern for drivers. Ms. Tenghi opened the meeting to the public, seeing no one the meeting was closed and brought back to the board. Mr. Jones asked if a variance for the fence was still needed to be considered for the West Crescent side of the property? Ms. Tenghi answered, it was not necessary for the applicants at this time due to the compliance from the prior resolution of the board and the Borough code adherence. Mr. Jones referred to the code for verification to remove the need of a variance to finish installing the fence at this time and carry the application. Ms. Cagney requested that the application would be carried until the spring when the driveway could be determined after the County work was completed. Ms. Hart made a motion to approve for the continuation of the application for the driveway until next month and the applicant will erect a four-foot fence along West Crescent Avenue that is within the code, and no resolution needed, seconded by Ms. Chamberlain. A roll call vote was taken. All present voted in favor. The Cagney's application would be continued to the January 24th, Regular Meeting of the Zoning Board with no further requests of the applicant to notify neighbors nor public notice.

The application ZBA 2017-08 for Kosto Panoski and Biljana Filipova residing at 255 Hillside Avenue, Allendale Block: 1103 Lot: 5 requesting the following variances: Minimum Lot Area (270-54E), Side Yard Setback (270-64B), Front Yard Setback (270-54B), and Rear Yard Setback (270-54D). Both the applicants were sworn in to testify. Mr. Panoski introduced their plans, a small entryway on the front of the house, which has a small awning and a cement platform would be enclosed to allow a space between the front door and the living room. No further construction would be made to increase or alter the footprint already present for the front entrance. The second part of the application would close off the attach the garage to the kitchen. The second garage located on the property is a module and would be removed. The garage to be attached to the home, be reinforced, and made more permanent. The plan drawings were submitted into evidence as P-1, the three pages of six photographs that represent the true and accurate structures were accepted into evidence at P-2 both dated 12/20/2017. Ms. Tenghi confirmed that the application was for four pre-existing nonconforming variances. There would be no expansions; the footprint of the front entrance would stay existing and converted to an enclosure. Ms. Filipova acknowledged the intent of their application was to make the modifications legal. Ms. Tenghi confirmed they would have to appear for these home improvements though no additional square footage was added only modified. Mr. Panoski advised the members the front entrance would be aesthetically modified with a portico roof to break the roof line nothing further added over the step. Mr. Manning confirmed the foyer to attached the garage would be six feet out from the wall and four feet back

from the front of the home. At this time Ms. Tenggi opened the meeting to the public for any questions, comments, or concerns. Seeing no one from the public, Ms. Tenggi brought the meeting back to the board for a final consideration. Mr. Jones inquired of the applicants how long they have been living at the residence, Ms. Filipova stated just over a year since September. Mr. Burnett inspected the property with the owners and advised that he himself approved the permit for the auxiliary building for the prior owners which is a shed. It would be their preference to bring the home into compliance of the code with the garage attached and aesthetically improve the home and front entrance. A motion was made by Ms. Chamberlain, to approve the application as submitted to attach the garage, convert the extension from the kitchen to the garage, to remove the auxiliary building, and enclose the front entrance, no further encroachments to the side yards, rear yard or front yard as presented. Ms. Tenggi seconded the motion, stating for the record that these changes would be a benefit to the community and the applicant to make the to aesthetically improve the home and bring the property into code. A roll call vote was taken, all present voted in favor of the application.

The final application to be heard was ZBA 2017-10 by the applicants Jason and Melissa Bergen of 160 Park Avenue, Allendale, Block: 1703 Lot: 9 for the following variances: Minimum Lot Area (270-57E), Minimum Lot Width (270-57F), Minimum Front Yard Setback (270-57B). The applicants were sworn in and represented themselves. Ms. Tenggi noted the Ms. Bergen is an architect which the applicant affirmed but due to working as a professional architect and a mother they needed assistance to complete the plans they had desired. Mr. Bergen began with the three variances which are all pre-existing nonconforming conditions, and the plans will not impact those conditions nor the neighborhood. The front yard set back is inconsistent along all of Park Avenue which they brought supporting documentation made by their neighbor confirming that the properties along the same side of Park Avenue in that vicinity are range from 25 to 31 feet front yard setbacks. Ms. Hart noted the enhance side yard setbacks of 15 feet minimum, and these were at 16.3 feet. Ms. Tenggi noted a concern that the square footage was to be nearly doubled with the plans, however seeing the plans it was very reasonable. It is a unique property with the rear of the property on Mallinson Avenue and a side yard that used to be a street. The architectural drawing and photographs of the home, eight pages, were submitted into evidence at B-1 dated 12/20/2017. Mr. Sirico asked if the attic would be for storage or living space Mr. Bergen noted that house would be torn down to the foundation and the ceiling height would be increased from six feet to eight feet. Mr. Stephen noted that all the garages on Mallinson Avenue face the street except theirs, which will be created to face the street. Mr. Hart pointed out that would not be full two-story addition all around. Mrs. Bergen would like to keep the aesthetics similar to the neighboring homes on Park Avenue which both Ms. Hart and Ms. Tenggi are familiar with as they are often in the area. Ms. Chamberlain inquired if they would be living there during the renovation which Ms. Bergen advised they would be moving out. The hardship is the 100 year home requiring new electric, heating, roofing, and investment to create a safer home up to current code for their family of four. They have been residing at the address for nine years and would appreciate the minimal additional space for their family. Ms. Tenggi opened the meeting to the public at this time, seeing no one the meeting was closed and brought back to the board for a final vote. Ms. Tenggi made a motion to approve the application as submitted, seconded by Mr. Sirico. Ms. Tenggi stated for the record that the applicant had three nonconforming variances of Minimum Lot Area, Minimum Lot Width, and Minimum Front Yard Setback. The plans submitted would benefit the applicant's compliance with MLUL, the

safety of the family residing at the current home, and the aesthetics both on Park Avenue and Mallinson Avenue to the benefit of the neighborhood. A roll call vote was taken, everyone voted in favor of this application.

The only resolution to be taken for the Board was to approve the meeting dates for 2018. Ms. Tengji introduced Resolution ZBA 17-08: Time and Place of Allendale Zoning Board of Adjustment Meetings 2018 to be approved for the fourth Wednesday except for the month of December, which would be the third Wednesday due to the holiday. Ms. Tengji asked for any questions, comments or concerns. Hearing none, Ms. Tengji requested a motion to approve the Resolution. On a motion from Mr. Sirico, seconded by Ms. Tengji, to be accepted. A roll call vote was taken. All present voted in favor.

The meeting was open to the public by Ms. Tengji, seeing no one the meeting was brought back to the board for any other discussions. Ms. Tengji asked if any other concerns to be discussed. Hearing none on a motion by Ms. Tengji, seconded by Mr. Manning the meeting was adjourned at 9:48 PM.

Respectfully submitted,

Christina Montanye