

LAND USE BOARD
BOROUGH OF ALLENDALE
500 West Crescent Avenue
Allendale, New Jersey 07401

A Regular Meeting of the Allendale Land Use Board will be held in the Council Chambers in the Allendale Municipal Building, 500 West Crescent Avenue, 2nd Floor, Allendale, NJ 07401 on August 15, 2018 at 7:30 p.m. Formal action will be taken.

I. CALL TO ORDER

- A. Open Public Meetings Act Announcement
- B. Salute to Flag

II. ROLL CALL

III. APPROVAL OF MINUTES

- A. May 16, 2018 Land Use Board Regular Meeting
- B. June 20, 2018 Land Use Board Special Meeting – 6:30pm
- C. June 20, 2018 Land Use Board Special Meeting – 7:00pm
- D. June 20, 2018 Land Use Board Regular Meeting
- E. July 18, 2018 Land Use Board Regular Meeting

IV. RESOLUTIONS

- A. LUB 18-19: Resolution of Approval
Application File No: LUB 2018-06
Applicant: Allendale Corporate Center, LLC
Address: 40 Boroline Road, Allendale, New Jersey 07401
Block: 702 Lot: 14
Application: Amended Minor Site Plan Approval
Variance – Section 270-40A (Off-Street Parking Requirements)

- B. LUB18-20: Resolution of Denial
Application File No: LUB 2018-05
Applicant: Bank of America ATM Operations
Address: 22 Maple Street, Allendale, New Jersey 07401
Block: 1808 Lot: 2
Application:
 - 1. Interpretation of Borough’s Zoning Ordinance pursuant to N.J.S.A. 40:55D-70(b)
 - 2. Use Variance pursuant to N.J.S.A. 40:55D-70d(1)

V. PUBLIC HEARING

A. Application File No: LUB 2018-07

Applicant: Laura Gill

Address: 28 Scott Court, Allendale, New Jersey 07401

Block: 1501 Lot: 4

Application:

Appeal of Zoning Official's July 6, 2018 Decision regarding provision of Section 270-14B (3) Accessory Buildings of the Code of the Borough of Allendale

B. Application File No: LUB 2018-08

Applicant: Gabriel and Jennifer Dee

Address: 66 Cherokee Avenue, Allendale, New Jersey 07401

Block: 503 Lot: 11

Application:

Appeal of Zoning Official's July 23, 2018 Decision regarding Provisions of Sections 270-22 Corner Lot, 270-54E Minimum Lot Area, 270-64B Side Yard Setback, 270-54B Front Yard Setback and 270-54D Rear Yard Setback of the Code of the Borough of Allendale.

VI. OPEN TO THE PUBLIC FOR COMMENT

VII. CORRESPONDENCE

VIII. OTHER

IX. ADJOURNMENT

*****AGENDA AND AGENDA MATERIALS SUBJECT TO CHANGE*****

POSTED: Borough Website
Borough Bulletin Board

**RESOLUTION
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Land Use Board	Motion	Second	Yes	No	Abstain	Absent
Bergen						
Daloisio						
Davis						
Kistner						
O'Toole						
Sasso						
Sirico						
White						
Quinn						
Kearl – Alternate						
Lovisololo - Alternate						

Carried Defeated Tabled

**LAND USE BOARD OF THE BOROUGH OF ALLENDALE
RESOLUTION APPROVING
APPLICATION FOR VARIANCE AND AMENDED SITE PLAN APPROVAL
FOR ALLENDALE CORPORATE CENTER, LLC
BLOCK 702, LOT 14
(a/k/a 40 BOROLINE ROAD)**

WHEREAS, the applicant, ALLENDALE CORPORATE CENTER, LLC, with a business address of 40 Boroline Road, Allendale, NJ, is the owner of property at 40 Boroline Road, Allendale, NJ, (Block 702, Lot 14) and has applied for variance and waiver relief, as well as preliminary and final site plan approval, in connection with this property (the "Property"); and

WHEREAS, the Land Use Board has reviewed the evidence and testimony of the Applicant, and its professionals, including Engineering and Architectural plans, and the testimony of other interested parties desiring to be heard at its public meeting on July 18, 2018, and Public Notice having been given by the Applicant in accordance with the requirements of the Municipal Land Use Law; and

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WHEREAS, the Land Use Board has reviewed the testimony provided to it by its Engineer, and considered input from its public safety personnel and professionals; 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. The Property is located in the EM Zone District, and it is pre-existing nonconforming. This zone provides for mixed industrial and low/moderate income residential dwelling development. The application was submitted in evidence.
2. The subject property is currently developed with a 107,800 sf building and associated amenities. The building contains office, manufacturing and storage space.
3. There is one pre-existing non-conforming condition on the site. The number of existing parking spaces is less than required, as 486 are required by Code, and 319 are presently existing. (Section 270-40D).
4. The application and plans propose an additional loading dock with a roll-up door and two (2) refuse containers for one of the tenants, which will result in a decrease in two (2) parking stalls from 319 spaces to 317 spaces.
5. Thus, the application proposes to add to the pre-existing non-conformity by reducing parking stalls on site from 319 spaces to 317 spaces.
6. The Applicant presented testimony from its Engineering expert, Andrew Missey, P.E., of Lapatka Associates, and the Board accepted in evidence engineering plans showing the Minor Site Plan prepared by Lapatka Associates dated March 21, 2018, Location Survey prepared by Lapatka Associates, dated February 25, 2018, and an Architectural Plan prepared by Poskanzer Scott Architects, last revised dated March 28, 2018. Mr. Missey was sworn and recognized by the Board as an expert in his field. He testified as to the present conditions, and proposed site plan improvements, including the engineering and architectural plans submitted as part of the Application. Mr. Missey also testified as to operations and present parking conditions and counts on site. Mr. Missey's parking count study reveals that average use of parking stalls on site is only 103 spaces. He also testified as to the storm water management improvements which would be a component of the Minor Site Plan amendment, and which would bring the site in compliance with current storm water management requirements, as well as maintaining ADA compliance. He further testified that the loss of two (2) parking spaces

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would have no discernable impact on traffic on the site, and that there would be no detrimental impact on the site or the surrounding zone by the approval of the amended site plan and variance. There would in fact be beneficial improvement due to the stormwater upgrades. Mr. Missey adequately addressed the issues raised by the Borough Engineer in his application review memo.

7. Allendale Borough Engineer, Michael Vreeland, P.E. reviewed the submissions by the applicant and prepared a Memorandum dated June 26, 2018. The Memorandum was in evidence and reviewed and examined by the members of the Land Use Board. Mr. Vreeland testified that in his opinion the parking counts and Mr. Missey's testimony were consistent with his multiple observations of the site. Further, Mr. Vreeland testified that the storm water management improvements were feasible and would bring the site into compliance with current regulations. He further recommended that the variance be expanded to allow elimination of four (4) parking spots, which would be of greater benefit to safety in light of truck turning requirements near the new loading dock doors.
8. No members of the public appeared in connection with the application.
9. Based upon the evidence and testimony presented, the Board concludes that the application, variance and waiver requested would improve the aesthetics and functionality of the property, the grant of the variance would promote or advance the purposes of the Municipal Land Use Law, and the benefits of such variance and waiver outweigh any detriment. It is determined that for the applicant to now comply with the parking space requirements would be a hardship, as the building is a lawfully existing structure in its current location, and parking space related issues have never presented a problem on site, nor does the evidence indicate that they will be in the future. The evidence and testimony support the fact that the hardship associated with the present condition of the property and premises greatly outweigh the negative criteria to the Borough zoning ordinances and the zone plan and surrounding neighborhood. In addition, the variance and waiver requested will not excessively expand the present non-conforming conditions. Further, the traffic flow on site will be improved with the application, and there will be no detrimental impact on parking on the site. Finally, although the applicant proposed to reduce the number of parking stalls from 319 to 317, the Board believes that it is reasonable and acceptable to approve the variance and permit the applicant to reduce the parking stalls from 319 to 315.

BE IT FURTHER RESOLVED that the Allendale Land Use Board hereby grants approval of the variance and waiver, and grants preliminary and final site plan approval, with a

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reduction in parking stalls from 319 stalls to 315 stalls on site, 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 shall comply in all respects with all applicable State, County and Municipal codes, ordinances, rules and regulations, and remain subject to all other governmental approvals prior to development.

C. Approval by the Borough of Allendale Police Chief and the Borough of Allendale Fire Chief/Fire Prevention Bureau, and the issuance of the proper permits from the Borough of Allendale, including but not limited to Tree Removal Permit, Soil Movement Permit and Street Opening Permit, if required.

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), due to the unique characteristics of the property, the pre-existing approved conditions, and the existing non-conformities.

BE IT FURTHER RESOLVED that in granting such variance the Board finds and concludes that the grant of approval of this variance poses no substantial detriment to the public good and that the benefits of the deviations substantial outweigh any detriment. The Board also concludes that the grant of the variance will not substantially impair the intent and purpose of the Allendale zone plan and zoning Ordinances.

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

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and its experts, 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 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 15, 2018

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Land Use Board	Motion	Second	Yes	No	Abstain	Absent
Bergen						
Daloisio						
Davis						
Kistner						
O'Toole						
Sasso						
Sirico						
White						
Quinn						
Kearl – Alternate						
Lovisolo - Alternate						

Carried Defeated Tabled

**LAND USE BOARD OF THE BOROUGH OF ALLENDALE
RESOLUTION DENYING APPLICATION FOR INTERPRETATION AND
APPLICATION FOR VARIANCE OF BANK OF AMERICA
BLOCK 1808, LOT 2
(a/k/a 22 MAPLE STREET)**

WHEREAS, the applicant, Bank of America, the owner of the property located at 22 Maple Street, known as Block 1808, Lot 2 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 March 23, 2018 for interpretation of an existing use, or in the alternative for approval of a variance for the premises to allow the continued use of a drive-thru Automated Teller Machine (“ATM”) on the premises, which is located in the C-1 zone, from the Allendale Code, Zoning; and

WHEREAS, the Land Use Board considered the matter at the July 18, 2018 regular public meeting of the Land Use Board at which the applicant was represented by counsel, and at which the applicant’s Professional Engineer and Planner, Jonathan Istranyi, P.E., P.P., personally appeared and testified;

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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 given by the applicant in accordance with applicable law.

2. The property is located at 22 Maple Street, known as Block 1808, Lot 2, on the Tax Map of the Borough of Allendale. The property is located in the "C-1" Central Business Zone. The application was in evidence.

3. The applicant submitted a Zoning Analysis/Site Plan prepared by Stonefield Engineering and Design, dated March 16, 2018 (marked A-1 in evidence); several site photographs (marked A-2 in evidence); and the Planning Evaluation report prepared by Jeffrey Martell, PE, PP, CME, LEED AP, of Stonefield Engineering and Design, dated June 7, 2018 (marked A-3 in evidence). The Board also reviewed the letter from Diane Hickey, Esq., counsel for the applicant, dated June 8, 2018.

4. In connection with the interpretation of the existing use, the applicant's Professional Engineer and Planner, Jonathan Istranyi, P.E., P.P., testified that the ATM today functions as a bank in and of itself. Since a bank is a permitted use in the zone, the unattended ATM should also be considered a permitted use in the Zone. Mr. Istranyi testified that the Ordinance relating to the application was drafted over twenty years ago, and that the nature of the banking industry and banking customer experience has evolved and changed dramatically since the adoption of the relevant Ordinance. He also testified that the ATM is actually covered by a permanent canopy and monitored 24/7, thereby in reality the ATM is not unattended and not outdoors.

5. In connection with the variance application, the applicant's Professional Engineer and Planner, Jonathan Istranyi, P.E., P.P., again testified that the ATM today functions as a bank in and of itself. He testified that the site has been in use for the past 43 years as a remote banking use, and has evolved over time to a single ATM, without pneumatic tubes or live tellers. The ATM itself has been in use for 22 years, and it is suitable for the site as it promotes the health, safety and welfare of the community, and promotes providing sufficient space in appropriate locations for a variety of uses and open space. It also promotes a desirable visual environment, and the free flow of traffic. He testified that the positive criteria had been met, and that the negative criteria had also been met since there was no detrimental impact on the neighboring community, the zone, or the Master Plan, in that the use was compatible with the downtown Central Business District. He also testified as to the mitigation efforts that would be undertaken

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by the applicant, i.e., landscape buffering and landscape modifications, reduced lighting when not in operation, limited hours of operation, and fencing.

6. In connection with the interpretation of the existing use and the variance application, Borough Planner, Edward Snieckus, P.P., L.L.A., A.S.L.A. reviewed the submissions by the applicant and prepared a Memorandum dated July 16, 2018. The Memorandum was in evidence and reviewed and examined by the members of the Land Use Board. Mr. Snieckus also asked questions of the applicant's planner, and testified that the ATM is outdoors, and is an unattended business, both of which are prohibited in the C-1 Central Business Zone. He also testified that the only permitted out of doors use in the zone was licensed outdoor cafes, and that the existing Ordinance did not intend for the unattended outdoor use of an ATM in the zone. This is consistent with the 1995 Resolution of the Allendale Zoning Board of Adjustment, which determined that the existing ATM was an unattended use at the facility, but permitted subject to several specific conditions and limitations, which could not be met at present. He also testified as to the impact of the use on the existing site and the zone, as well as the impact and interplay of the use with the Master Plan, in particular that the recent Master Plan reexamination which sought to discourage drive thru uses which could conflict with pedestrian safety and circulation.

7. The Borough's Engineer, Michael Vreeland, P.E., reviewed the submissions by the applicant and prepared a Memorandum dated June 14, 2018. The Memorandum was in evidence and reviewed and examined by the members of the Land Use Board.

8. Land Use Board members asked questions of the applicants' Planner, the applicant's counsel, and the Borough professionals relative to the merits of the application.

9. Members of the public appeared in connection with the application and asked questions of the applicant's Planner, and provided testimony related to the merits of the application.

NOW THEREFORE, BE IT RESOLVED, based upon the factual and legal evidence, testimony and contentions set forth herein, that the Allendale Land Use Board hereby denies the applicant's request for interpretation of the existing Ordinance that the existing drive-thru ATM is a permitted use in the zone, and denies approval of the requested use variance for the continued use of the drive thru ATM at the premises; and

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BE IT FURTHER RESOLVED that the Allendale Land Use Board hereby specifically determines that the existing ATM use is out of doors, and it is an unattended business, both of which are prohibited in the C-1 Central Business Zone.

BE IT FURTHER RESOLVED that the Allendale Land Use Board hereby determines that the requested variance does not meet the factual or legal criteria for a use variance under N.J.S.A. 40:55D-70(d)(1); and

BE IT FURTHER RESOLVED that the Allendale Land Use Board finds and concludes that no “special reasons” exist for the granting of the variance, and that the grant of the variance would not advance the purposes of the Municipal Land Use Law. The Board further finds that approval of the variance would result in a substantial detriment to the public good, and that the benefits of the proposed deviation do not substantially outweigh any detriment. The Board also concludes that the grant of the variance will substantially impair the intent and purpose of the Allendale zone plan and zoning Ordinances. In fact, there is no zoning benefit to the proposed use variance since it would allow a use in the district which is specifically not permitted by the Ordinance, and specifically discouraged in the Master Plan.

BE IT FURTHER RESOLVED that the applicant shall cease and desist such use of the unattended, out of doors ATM at the premises within forty five (45) days of the adoption of this Resolution.

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

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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 15, 2018