

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

A Regular Meeting of the Allendale Land Use Board was held in the Council Chambers in the Allendale Municipal Building, 500 West Crescent Avenue, 2<sup>nd</sup> Floor, Allendale, NJ 07401 on September 19, 2018. The meeting was called to order at 7:32 p.m by Chairman Quinn who read the open public meetings statement and stated the requirements had been satisfied.

Chairman Quinn led those present in a salute to the flag.

***ROLL CALL:***

The following individuals answered roll call:

Board member Bergen	Councilman Sasso
Secretary Daloisio	Vice Chairman Sirico
Board member Davis	Mayor White
Board member O'Toole	Chairman Quinn
	Alternate Lovisolo

The following individuals were also present:

Board Attorney, Christopher C. Botta, Esq.  
Board Planner, Ed Snieckus  
Land Use Administrator, Linda Garofalo

***APPROVAL OF MINUTES:***

Motion by Secretary Daloisio, second by Board member Davis that the Minutes of August 15, 2018 Land Use Board Meeting were approved.

On a roll call, the vote was recorded as follows:

Board member Bergen - aye	Councilman Sasso - aye
Secretary Daloisio - aye	Vice Chairman Sirico - aye
Board member Davis - aye	Chairman Quinn - aye
Board member O'Toole - aye	Alternate Lovisolo - aye

***RESOLUTIONS:***

- A. LUB 18-21: Resolution of Approval  
Application File No: LUB 2018-08  
Applicant: Gabriel and Jennifer Dee  
Address: 66 Cherokee Avenue, Allendale, NJ  
Block: 503 Lot: 11  
Application: Variance Section 270-54B – Front yard encroachment  
Variance Section 270-54C – Side yard encroachment  
Variance Section 270-54D – Rear yard encroachment

Variance Section 270-54E – Undersized lot area  
Variance Section 270-54F – Lot width is undersized  
Variance Section 270-63 - Exceed Maximum FAR

A Motion was made by Board Member Davis, second by Vice Chairman Sirico to approve the Resolution of Approval, Resolution LUB 18-21.

On a roll call, the vote was recorded as follows:

Board Member Bergen – aye	Vice Chairman Sirico – aye
Secretary Daloisio – aye	Chairman Quinn – aye
Board member Davis – aye	Alternate Lovisolo – aye
Board member O’Toole - aye	

B. LUB 18-22: Resolution of Approval  
Application File No: LUB 2018-07  
Applicant: Laura Gill  
Address: 28 Scott Court, Allendale, NJ  
Block: 1501 Lot: 4  
Application: Variance Section 270-14B(3) – Accessory Building

A Motion was made by Secretary Daloisio, second by Board Member Davis to approve the Resolution of Approval, Resolution LUB 18-22.

On a roll call, the vote was recorded as follows:

Board member Bergen - aye	Councilman Sasso - aye
Secretary Daloisio – aye	Vice Chairman Sirico - aye
Board member Davis – aye	Chairman Quinn – aye
Board member O’Toole – aye	

#### REVIEW OF ORDINANCES

ORDINANCE 18-13 AN ORDINANCE OF THE BOROUGH OF ALLENDALE, ADDING CHAPTER 81, “AFFORDABLE HOUSING” TO THE CODE OF THE BOROUGH OF ALLENDALE TO ADDRESS THE REQUIREMENTS OF THE NJ SUPERIOR COURT

ORDINANCE 18-14 AN ORDINANCE OF THE BOROUGH OF ALLENDALE TO AMEND CHAPTER 270, “ZONING” OF THE BOROUGH CODE, TO CREATE THE ALLENDALE CORPORATE CENTER INCLUSIONARY OVERLAY RESIDENTIAL ZONE DISTRICT, ALSO KNOWN AS MFRO-3

ORDINANCE 18-15 AN ORDINANCE OF THE BOROUGH OF ALLENDALE TO AMEND

CHAPTER 270, "ZONING" OF THE BOROUGH CODE, TO CREATE THE FRANKLIN TURNPIKE INCLUSIONARY OVERLAY RESIDENTIAL ZONE DISTRICT, ALSO KNOWN AS MFRO-4

ORDINANCE 18-16 AN ORDINANCE OF THE BOROUGH OF ALLENDALE, TO AMEND CHAPTER 270 "ZONING" OF THE BOROUGH CODE, TO CREATE THE RAMSEY GOLF COURSE INCLUSIONARY OVERLAY RESIDENTIAL ZONE DISTRICT, ALSO KNOWN AS MFRO-2

ORDINANCE 18-20 AN ORDINANCE TO SUPPLEMENT §270-26 ENTITLED "PROHIBITED USES WITHIN THE BOROUGH" OF CHAPTER 270 ENTITLED "ZONING" OF THE CODE OF THE BOROUGH OF ALLENDALE SO AS TO PROHIBIT THE USE OF ANY PREMISES IN ANY ZONING DISTRICT OF THE BOROUGH OF ALLENDALE FOR THE SALE OF MARIJUANA OR MARIJUANA SUBSTITUTES EXCEPT FOR THE SALE OF PRESCRIBED MEDICAL MARIJUANA UPON CERTAIN PREMISES

ORDINANCES 18-13, 18-14, 18-15 and 18-16

Mayor White thanked Ed Snieckus for going through these Ordinances. These are the Ordinances that will wrap up our Affordable Housing Plan. As you know there were overlay zones that we approved as part of our settlement with the Fair Share Housing Center.

Ed Snieckus stated this updates the requirements, especially with the courts having taken over jurisdiction of COAH.

Mayor White stated we went pretty deep into these Ordinances. I, unfortunately, made Ed go back a couple times to make sure that we thought about things like parking, lighting and height.

Ed Snieckus stated in addition, the Mayor and Council has sent the Ordinances to this body for review and an inconsistency review. We need to look for inconsistencies relating to the Master Plan. I don't find any inconsistencies between the Master Plan and these Ordinances.

Mayor White stated in Ordinance 18-14, on maximum density, the density is clearly spelled out here. You can't have a developer come in and say he wants 20 units per acre. This shows the agreed upon density in this specific zone. We talk about building height, number of feet away from public buildings, separation between buildings, scale of buildings, the length. We went pretty deep in terms of protecting the Borough as much as we could. This still has to go before the court master and the court. Hopefully they will agree that these Ordinances are not too restrictive.

Chairman Quinn stated the court has to finalize our Affordable Housing Plan and then we're protected until 2025.

Mayor White stated we are on track to get this to the court by October 1<sup>st</sup>. Obviously this Board

will review and give a recommendation and then on September 27<sup>th</sup> the council will hold it's public hearing on these Ordinances and hopefully adopt them. The next day they will be delivered to the court so they're there by October 1<sup>st</sup>, which is our deadline.

A Motion was made by Vice Chairman Sirico, second by Secretary Daloisio to advise there are no inconsistencies between the Master Plan and Ordinances 18-13, 18-14, 18-15 and 18-16.

On a roll call, the vote was recorded as follows:

Board Member Bergen – aye	Vice Chairman Sirico - aye
Secretary Daloisio – aye	Mayor White - aye
Board member Davis – aye	Chairman Quinn - aye
Board member O'Toole - aye	Alternate Lovisolo – aye
Councilman Sasso – aye	

#### ORDINANCE 18-20

Councilman Sasso stated we read this at the last council meeting. We join 30 other communities in New Jersey on legalized marijuana. The sale of recreational marijuana will be banned in the Borough of Allendale. Medical marijuana dispensary will be permitted only in the E and M zone.

Mayor White stated we feel this is a good area up on Boroline Road, we have Stryker and Community Blood Services there. It's probably the right place for it. We didn't want to completely restrict it, we thought this would be the best location for such a business. This recommendation does come directly from the Police Chief and we have received numerous emails from members of the community on this topic. The Board of Health reviewed this Ordinance as well and is in support of it.

Ed Snieckus stated I think you are being very specific about this use; it's not open ended retail business prohibited in these zones.

The only addition I would add is that should the state legalize recreational marijuana that the Borough immediately review the ordinance again and make sure the ordinance and the Master Plan continue to support the legal basis for the prohibitions. I do not see any inconsistencies with the Master Plan and this ordinance.

A Motion was made by Secretary Daloisio, second by Councilman Sasso to advise there are no inconsistencies between the Master Plan and Ordinance 18-20.

On a roll call, the vote was recorded as follows:

Board Member Bergen – aye	Vice Chairman Sirico - aye
Secretary Daloisio – aye	Mayor White - aye
Board member Davis – aye	Chairman Quinn - aye
Board member O'Toole - aye	Alternate Lovisolo – abstain
Councilman Sasso – aye	

Public Hearing Follow Up – LUB 2018-03

Chris Botta stated the applicant, Grosso and Cifuentes, at 151 Park Avenue were denied the appeal of the Zoning Officer's ruling and denial of the variance request for the house without the garage. They filed suit in Superior Court that was served on August 29<sup>th</sup>, 2018 and we have until early October to file an answer. I will be filing an answer on behalf of the Planning Board, the Borough and Borough Code Official, Mr. Hackett although he wasn't involved in any part of this. I will keep you up to date as to the ongoing litigation. We did pass a Resolution, I felt it was sufficient for our purposes. If anybody is contacted by the applicant or anyone in town about it, please respond it is in litigation and we can't have any further comment.

Other Matters:

Chairman Quinn raised a question relating to a recent letter to all residents from Suez Water on behalf of the Borough. Mayor White stated regarding Suez Water, we have landlords in town that rent out properties. The tenant calls for water service. Our water is premise based debt. Whoever owns the property is responsible for the water bill. The landlords felt they were not responsible if the tenant walked away and left the bill. Our ordinance states that they are responsible. We decided to go out and notify landlords that they will be getting the bill and they can have their tenant pay the bill but they are responsible for the charge. This is what the letter should have said. How they said it, I will have to take a look. Suez is changing their billings. This letter went to all the homeowners.

Chairman Quinn stated Linda sent a notice out late this afternoon on the West Allendale Avenue and DeMercurio Drive streetscape plan (Phase 2), 2019 Municipal Aid.

Chris Botta stated they are looking for a letter of support from other organizations for a grant application, such as the Land Use Board.

Mayor White stated I would love for you to do that. We did Phase I, we received \$225,000 from the NJDOT for streetscape improvements. We were replacing the street lights downtown. They were old, they're costly and they needed to be replaced. We will use the \$225,000 towards that. The second Phase is improvements of the sidewalk, replacing the garbage cans and putting new trees in. If this Land Use Board feels that would be a good use of the grant application, I would be eternally grateful for their recommendation and the letter of support be sent.

Chris Botta stated the Board can pass a voice resolution and ask me to draft a letter saying that the Board was in support of the application because it's consistent with the Master Plan and beautification purposes.

A Motion was made by Vice Chairman Sirico, second by Secretary Daloisio to authorize Chris Botta to draft a letter of support from the LUB for West Allendale Avenue and DeMercurio Drive Streetscape (Phase 2).

On a roll call, the vote was recorded as follows:

Board Member Bergen – aye	Vice Chairman Sirico - aye
Secretary Daloisio – aye	Mayor White - aye
Board member Davis – aye	Chairman Quinn - aye
Board member O’Toole - aye	Alternate Lovisolo – abstain
Councilman Sasso – aye	

Mayor White stated the next LUB Meetings are October 17<sup>th</sup>, November 14<sup>th</sup> and December 12<sup>th</sup>, 2018.

***OPEN TO THE PUBLIC FOR COMMENT:***

Seeing and hearing none, Chairman Quinn brought it back to the Board.

***CORRESPONDENCE:***

There was no correspondence.

***ADJOURNMENT:***

On a motion by Vice Chairman Sirico, seconded by Mayor White, with all present members voting in favor the meeting adjourned at 8:19 p.m.

Respectfully submitted,

*Linda Garofalo*

Linda Garofalo  
Land Use Administrator

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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 FOR G. & J. DEE  
BLOCK 503, LOT 11  
(a/k/a 66 CHEROKEE AVENUE)**

**WHEREAS**, the applicants, Gabriel & Jennifer Dee, the owners of the property located at 66 Cherokee Avenue, known as Block 503, 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 July 30, 2018 for approval of variances for the premises, which is located in the AA zone, from the Allendale Code, Zoning; and

**WHEREAS**, the application seeks variances since the property and structure is pre-existing non-conforming, and the application specifically seeks to construct an addition to the existing dwelling, and add a mudroom, basement space, and to expand the kitchen at the rear of the house; and

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**WHEREAS**, the application seeks specific variance relief for lot area, lot width, side yard setback, floor area ratio, front yard setback, and rear yard setback; and

**WHEREAS**, the Land Use Board considered the matter at the August 15, 2018 regular meeting of the Land Use Board at which the applicants, Gabriel & Jennifer Dee, 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 applicants in accordance with applicable law.
2. The property is located at 66 Cherokee Avenue, known as Block 503, Lot 1, 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 architectural plans by Anderson Architects with a last revision date of July 30, 2018, a description of the proposed structure, a marked-up tax map excerpt, a survey and photographs. These plans and exhibits were in evidence and reviewed and examined by the members of the Land Use Board.
4. Borough Engineer, Michael Vreeland, P.E. reviewed the submissions by the applicant and prepared a Memorandum dated August 9, 2018. The Memorandum was in evidence and reviewed and examined by the members of the Land Use Board.
5. Variances are required because an AA residential zone requires a minimum lot area of 26,000 square feet; a minimum lot width of 130 feet; a maximum floor area ration of 25%; minimum side yard setbacks of 20 feet; minimum front yard setbacks of 40 feet; a minimum rear yard setback of 50 feet; all of which are exceeded by the existing premises and the proposed improvements.

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6. The applicants were sworn and testified that they were seeking to construct an addition to the existing primary residence to expand their kitchen, and add a mudroom and basement game room. They specifically referenced the architectural plans depicting the proposed addition, and the photographs submitted with the application. They also testified that the addition would result in them giving up outside deck space for interior space, and that the deck that was being removed would not be replaced. The addition would be aesthetically pleasing to the property, functional for their family and would not be observable from the roadway due to vegetation and placement. They also testified as to the unique existing property conditions, such as the unconstructed and unimproved "paper street" (Oolltera Avenue) which converts the property into a corner lot, the fact that the property is undersized as it presently exists, and the existing vegetation on the rear and sides of the property.

7. 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 variances to expand the non-conforming conditions at the premises, and to permit the exceedance of the maximum Floor Area Ratio; and

**BE IT FURTHER RESOLVED** that the Allendale Land Use Board hereby determines that the variances hereby granted constitute a "hardship" variance under N.J.S.A. 40:55 D-70C.(1); and

**BE IT FURTHER RESOLVED** that the Allendale Land Use Board hereby determines that the variance to exceed the Floor Area Ratio hereby granted is appropriate under N.J.S.A. 40:55 D-70d(4) in that "special reasons" for the grant of the variance have been proven by the applicant; and

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**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 on the corner lot, due to the unconstructed and unimproved “paper street” (Oolooteka Avenue), the existing non-conformities, and the testimony that there will be no or negligible impact on the surrounding properties and zone plan. 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 greatly outweigh the negative criteria to the Borough zoning ordinances and the zone plan and neighborhood. In addition, the variance requested will not excessively expand the present non-conforming conditions, and will not be obtrusive due to the placement and configuration of the primary structure on the lot, the location of the proposed addition in the rear of the existing premises, and shielding from the existing vegetation which will remain; and

**BE IT FURTHER RESOLVED** that in granting such variance to exceed the maximum Floor Area Ratio, the Board finds and concludes that “special reasons” exist for the granting of the variance, and that the grant of approval of the variance advances the purposes of the Municipal Land Use Law. The existing Floor Area Ratio is 25.48%, which exceeds the maximum permitted of 25%. The proposed Floor Area Ratio will be 28.29%. The Board concludes that this increase is minimal, in light of the unique circumstances and characteristics of the property. The Board further finds that there is no substantial detriment to the public good and that the benefits of the deviations

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substantially 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** that the Allendale Land Use Board hereby grants approval of the requested variances, 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. Surface and roof run-off must be addressed in consultation with the Borough Engineer so that there is safe and adequate drainage of surface and roof run-off, so as not to impact adjoining properties and/or the street.

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

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Approved:

ALLENDALE LAND USE BOARD



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KEVIN QUINN, Chairman

Attest:



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JOSEPH ALOISIO, SECRETARY

Adopted: September 19, 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 APPROVING  
APPLICATION FOR VARIANCE FOR LAURA GILL  
BLOCK 1501, LOT 4  
(a/k/a 28 SCOTT STREET)**

**WHEREAS**, the applicant, Laura Gill, the owner of the property located at 28 Scott Court, known as Block 1501, Lot 4 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 July 17, 2018 for approval of a variance for the premises, which is located in the AAA zone, from the Allendale Code, Zoning; and

**WHEREAS**, the application seeks a variance since the property and accessory structure is pre-existing non-conforming, and the application specifically seeks to expand the existing detached cabana; and

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**WHEREAS**, the application seeks specific variance relief for the expansion of an accessory structure, since the accessory structure and property are non-conforming to Section 270-14B.(3) of the Allendale Borough Code by virtue of being on a corner lot, and the accessory structure is located within the front half of the lot along Scott Court, in; and

**WHEREAS**, the Land Use Board considered the matter at the August 15, 2018 regular meeting of the Land Use Board at which the applicant, Laura Gill, 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 28 Scott Court, known as Block 1501, Lot 4, on the Tax Map of the Borough of Allendale. The property is located in the AAA residential zone. The application was in evidence.
3. As part of the application, the applicant submitted architectural sketches, a description of the proposed structure, a marked-up tax map excerpt, a marked-up survey and photographs. These plans and exhibits were in evidence and reviewed and examined by the members of the Land Use Board.
4. Borough Engineer, Michael Vreeland, P.E. reviewed the submissions by the applicant and prepared a Memorandum dated August 9, 2018. The Memorandum was in evidence and reviewed and examined by the members of the Land Use Board.
5. A variance is required because in the AAA residential zone, and in the case of a corner lot fronting on two streets, no accessory building shall be erected or altered so as to encroach upon that area of the lot between each street and a line drawn parallel to such street in a manner to divide the lot into two equal parts. Section 270-14B.(3).

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6. The applicant was sworn and testified that she was seeking to construct an addition to the existing accessory structure (cabana) to expand the roofline of the cabana over an open patio. She also testified that the addition would be aesthetically pleasing to the property, functional for her family and would not be observable from the roadway due to vegetation. She also testified as to the unique existing property conditions, such as the corner lot, the fact that Scott Court was a dead-end cul-de-sac, the existing vegetation on the rear and sides of the property, and the L-shaped ranch house as the primary residence.

7. 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 to expand the non-conforming accessory structure at the premises; 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 on the corner lot, the placement of the accessory structure, the existing non-conformity, and the testimony that there will be no or negligible impact on the surrounding properties and zone plan. 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 greatly outweigh the negative criteria to the Borough zoning ordinances and the zone plan and neighborhood. In

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addition, the variance requested will not excessively expand the present non-conforming condition, and will not be obtrusive due to the existing lot size and shielding from the existing vegetation which will remain; and

**BE IT FURTHER RESOLVED** that the Allendale Land Use Board hereby grants approval of the requested variance, subject to the following condition, 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.

**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.

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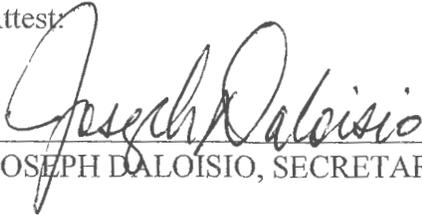
Approved:

ALLENDALE LAND USE BOARD



\_\_\_\_\_  
KEVIN QUINN, Chairman

Attest:



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JOSEPH DALOISIO, SECRETARY

Adopted: September 19, 2018