

Land Use Board	Motion	Second	Yes	No	Abstain	Absent
Bergen						✓
Daloisio					✓	
Davis					✓	
Kistner						✓
Lovisolo			✓			
Sasso					✓	
Sirico	✓		✓			
Bernstein					✓	
Quinn			✓			
Yaccarino – Alt. #2		✓	✓			

Carried Defeated Tabled

RESOLUTION LUB 19-19

LAND USE BOARD OF THE BOROUGH OF ALLENDALE
 RESOLUTION APPROVING
 APPLICATION FOR VARIANCE FOR THOMAS & DEBRA MCDERMOTT
 BLOCK 1602, LOT 7
 (a/k/a 22 OAK STREET)

WHEREAS, the applicants, Thomas and Debra McDermott, the owners of the property located at 22 Oak Street, known as Block 1602, Lot 7 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 June 7, 2019 for approval of a variance for the premises, which is located in the A zone, from the Allendale Code, Zoning; and

WHEREAS, the application seeks a variance since the property and structure is pre-existing non-conforming, and the application specifically seeks to construct a second story addition to the existing dwelling; and

BE IT FURTHER RESOLVED that the Allendale Land Use Board hereby grants approval of the requested variances, 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.
- 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 negatively impact adjoining properties and/or the street.
- C. The existing driveway shall be repaired and/or improved.
- D. Landscape and landscape buffering shall be addressed in consultation with the Borough Engineer, so as not to negatively impact adjoining properties.

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.

WHEREAS, the application seeks specific variance relief for front yard encroachment, rear yard encroachment, side yard encroachment and exceeding the allowable floor area ratio (“FAR”); and

WHEREAS, the Land Use Board considered the matter at the July 17, 2019 regular meeting of the Land Use Board at which the applicants, Thomas and Debra McDermott, and their architect, Kevin Martin, personally appeared and testified under oath;

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 22 Oak Street, known as Block 1602, Lot 7, on the Tax Map of the Borough of Allendale. The property is located in the A residential zone. The application was in evidence.

3. As part of the application, the applicant submitted Architectural Plans prepared by Kevin Martin, dated May 28, 2019; a Survey Plan prepared by Butler Surveying, dated November 14, 2012; a Tax Map exhibit; a photographs exhibit and various diagrams. 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 July 9, 2019. 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.

5. A variance is required because this property located in the A residential zone, due to the structure in place and proposed as part of the application, requires a minimum rear yard setback of 50 feet, a minimum front yard setback of 25 feet, a minimum side yard setback of 15 feet, and a maximum floor area ration of 25%. The lot is also substantially undersized.

6. The applicants and their professional, Kevin Martin, were sworn and testified that they were seeking to construct a second story addition to add bedrooms to the existing structure. They specifically referenced the architectural plans depicting the proposed addition, and the survey which shows existing conditions, including the substantially undersized lot area. They also referenced photos of surrounding properties to show that the proposed structure would fit in with the size and character of the neighborhood, and would not be excessive for the lot and

neighborhood. The property is currently two bedrooms. Testimony was adduced as to the hardship associated with the property, to wit, the substantially undersized lot and the enhancement of the side yard setbacks due to the proposed addition. The addition would be aesthetically pleasing to the property, functional for their family and would not be obtrusive since it would extend above the existing structure. It was also determined that the proposed floor area ratio would be 29%, which is only 4% above the maximum permitted (25%), and this was deemed to be insubstantial for the premises and in light of the particular circumstances of this property and proposed improvements.

7. No members of the public appeared in connection with the application.

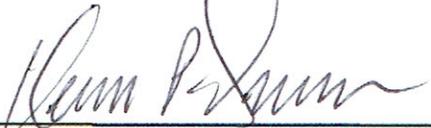
BE IT FURTHER RESOLVED, based upon the factual and legal evidence, testimony and contentions set forth herein, that the Allendale Land Use Board hereby grants the applicant's request for variance relief to allow the continuation of the non-conforming condition at the premises, and to permit the addition as proposed in the application; and

BE IT FURTHER RESOLVED that the Allendale Land Use Board hereby determines that the variances hereby granted constitute "hardship" variances 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 applicants and the Borough Engineer, in connection with the testimony that the applicants are entitled to a "hardship" variance relief, due to the unique nature of the property, namely the substantially undersized lot size. 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 variances requested will not expand the present non-conforming condition, will improve the existing non-conformity with regard to the front yard setback, and will not be obtrusive or excessive; and

Approved:

ALLENDALE LAND USE BOARD



KEVIN QUINN, Chairman

Attest:



JOSEPH DALOISIO, SECRETARY

Adopted: August 21, 2019