

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

DATE: *June 17, 2020*

RESOLUTION# LUB 20-13

Carried  Defeated  Tabled

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

**RESOLUTION 20-13  
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 April 6, 2020 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 27.88 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 construct a second story addition to the existing dwelling for an addition of 382 square feet, and an expanded front porch; and

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

**WHEREAS**, the Land Use Board considered the matter at the May 20, 2020 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 Architectural Plans prepared by Robert Puzio, AIA, dated March 21, 2020, a survey/zoning schedule prepared by Matthew Greco, P.E., dated February 26, 2020, various photographs and correspondence. 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 May 6, 2020. 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

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27.88 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 second story addition and expanded front porch. It will not change the present footprint of the structure or property.

7. The applicant was sworn testified as to the existing conditions of the property, and that the applicant was seeking to construct a modest addition to the home to better accommodate his family. Any improvements on the property would require variance relief, due to the pre-existing non-conformity. The proposed addition would extend over the existing structure and add/modify bedrooms and add a bathroom. He 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 applicant specifically referenced the architectural plans depicting the proposed addition and testified that the additional building coverage would make the setback requirement more burdensome, since they would be enhanced under the provision of the Borough Zoning Code. The addition 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 May 6, 2020. 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 that existing drainage conditions were adequate.

9. One member of the public appeared in connection with the application. This adjacent neighbor expressed no concerns with the addition after seeing the plans and hearing the testimony, in particular that the existing landscaping buffer would remain.

**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

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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 the lot, the location of the proposed addition above the existing structure 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

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**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.

**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



KEVIN QUINN, Chairman

Attest:

  
JOSEPH DALOISIO, SECRETARY

Adopted: June 17, 2020