

**14RESOLUTION
LAND USE BOARD
BOROUGH OF ALLENDALE
BERGEN COUNTY, NJ**

DATE: August 19, 2020

RESOLUTION# LUB 20-14

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 20-14

**LAND USE BOARD OF THE BOROUGH OF ALLENDALE
RESOLUTION APPROVING
APPLICATION FOR VARIANCE FOR MICHAEL & SUSAN RITZ
BLOCK 1304, LOT 40
(a/k/a 2 BUTTERNUT ROAD)**

WHEREAS, the applicants, MICHAEL & SUSAN RITZ, the owners of the property located at 2 Butternut Road, known as Block 1304, Lot 40 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 15, 2020 for approval of a variance for a proposed portico addition to the premises, which is located in the AAA zone, from the Allendale Code, Zoning; and

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WHEREAS, the application seeks a variance since the addition as proposed would result in a 46-foot front yard setback, which presently exists, whereas a 50-foot front yard setback is required in the AAA zone.

WHEREAS, the application specifically seeks approval to construct a covered portico over the front door entrance; and

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

WHEREAS, the Land Use Board considered the matter at the July 15, 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 2 Butternut Road, known as Block 1304, Lot 40, 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 owner-prepared drawings dated June 15, 2020, which were marked as Exhibit A-1, and various photographs. These plans and exhibits were in evidence and reviewed and examined by the members of the Land Use Board.

4. A variance is required because this property located in the AAA residential zone requires a minimum front yard setback of 50 feet. The property presently is non-conforming with a 46-foot front yard setback, which existed when the applicants acquired the property. The proposed portico addition would neither enlarge nor exacerbate the non-conformity, and would result in continuance of the front yard setback of 46 feet. It will not change the present footprint of the structure or property.

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5. The applicants were sworn and testified as to the existing conditions of the property, and that the applicants were seeking to construct a modest covered portico to the front of the house, similar to those on other structures in the neighborhood and in photographs accompanying the application. The portico would allow the applicants and visitors to enter the front door with protection from the elements, and would be aesthetically pleasing as an added design element to the structure. The existing uncovered landing is inadequate to protect visitors. The proposed portico would be decorative only, and there would be no access to the top of the portico from the home. The addition would be functional for their family and 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 pre-existing non-conforming front yard setback. They also testified that the addition would actually be an improvement to the zone, and 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. They also testified that the existing non-conformity would not be increased by the proposed addition.

6. Borough Engineer, Michael Vreeland, P.E. had visited the site, reviewed the submissions by the applicant and gave comments and testimony before the Board on the application, and expressed no concerns with the application from an engineering standpoint.

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 for front-yard setback relief, and to permit the portico 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 variance under N.J.S.A. 40:55 D-70C.(1) and N.J.S.A. 40:55 D-70C.(2); 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 variance, due to the unique nature of the property, namely the pre-

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existing non-conformity on the property (N.J.S.A. 40:55 D-70C.(1)), and due to the fact that the purposes of the MLUL would be advanced by a deviation from the zoning ordinance requirements and that the benefits would outweigh any detriment to the public good (N.J.S.A. 40:55 D-70C.(2)).

Specifically, the application (1) relates to the specific piece of property at 2 Butternut Road; (2) the purposes of the MLUL would be advanced by a deviation from the zoning ordinance requirement by allowing a 46 foot front yard setback in this instance to construct a portico addition to the front facade of the structure since the aesthetics of the property will be significantly improved; (3) the variance can be granted without substantial detriment to the public good since it will have no negative impact on the surrounding properties or the zone; (4) the benefits of the deviation to permit the portico addition will substantially outweigh any detriment and (5) the variance will not substantially impair the intent and purpose of the zone plan and zoning ordinance, since it will be consistent with the zone plane. As such, in this instance, the granting of the variance will benefit the community in that it represents a better zoning alternative for the property than would a strict adherence to the Zoning Code.

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.

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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 from the proposed addition, 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.

Approved: *Aug 19, 2020*

ALLENDALE LAND USE BOARD



KEVIN QUINN, Chairman

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Attest:

A handwritten signature in blue ink, appearing to read "Joseph Daloisio", is written over a horizontal line.

JOSEPH DALOISIO, SECRETARY

Adopted: August 19, 2020