

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

**DATE: September 16, 2020**

**RESOLUTION# LUB 20-15**

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

Carried  Defeated  Tabled

**RESOLUTION 20-15**

**LAND USE BOARD OF THE BOROUGH OF ALLENDALE  
RESOLUTION APPROVING  
APPLICATION FOR VARIANCE FOR MATTHEW & TARA FLATH  
BLOCK 404, LOT 5  
(a/k/a 742 HEIGHTS ROAD)**

**WHEREAS**, the applicants, MATTHEW & TARA FLATH, the owners of the property located at 42 Heights Road, known as Block 404, Lot 5 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 May 27, 2020 for approval of a variance for a proposed addition to the premises, which is located in the A residential zone, from the Allendale Code, Zoning; and

**WHEREAS**, the application seeks a variance since the property addition as proposed would result in a 15-foot left yard setback, whereas a 24.246-foot setback is required, and a 15.69

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and 16.7 foot right yard setback (box window), whereas a 24.246 setback is required. It is noted that the left-side and right-side yard setbacks are pre-existing non-conforming, and the lot is undersized for the zone. The 24.246 setbacks are the enhanced setback requirements imposed by Code based on the square footage of proposed improvements.

**WHEREAS**, the application specifically seeks approval to construct an addition to the existing dwelling for an addition of 1,813 square feet, and

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

**WHEREAS**, the application and plans were submitted and the Land Use Board considered the matter at the June 17, 2020 meeting of the Land Use Board at which the applicant and retained professional personally appeared and testified; and

**WHEREAS**, the applicants, after receiving feedback from the Land Use Board and its professionals, requested a continuance of the hearing for the preparation and submission of amended plans; and

**WHEREAS**, the applicant submitted amended plans dated July 30, 2020 in a timely manner, and the Land Use Board again considered the matter at the August 19, 2020 meeting of the Land Use Board at which the applicant and retained professional 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.

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2. The property is located at 42 Heights Road, known as Block 404, Lot 5, 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 the Land Use Board application packet, Architectural Plans prepared by Xiomara C. Paredes, AIA, dated May 12, 2020, and amended Architectural Plans dated July 20, 2020 (Exhibit A-2), 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 June 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 A residential zone, due to the structure in place, lot size and proposed enlarged floor area, requires minimum side yard setbacks of 24.246 feet. The proposed addition would result in a left-side yard setback of 15 feet, which presently exists. The proposed addition would also result in a 15.69 and 16.7 foot right yard setback (box window). Both conditions are pre-existing, non-conforming.

6. The proposed addition will include a new garage on the side of the premises, a second story rear addition and expanded rear porch.

7. At both hearings, 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 in the amended plans (Exhibit A-2) would extend to the rear of the existing structure and add an open porch. The front façade and entrance of the home would also be modified to make it visually more attractive from the road. 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. The applicant testified that the existing detached accessory structure would be removed as part of the renovations.

8. The applicant's architect, Xiomara C. Paredes, AIA, was sworn and accepted as an expert in the field of architecture. She testified as to the existing conditions of the property, structure and lot, and that the applicant was seeking to construct a modest addition to the home to better accommodate his family and more efficiently configure the interior and exterior space. She 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 the sub-standard lot size. The proposed addition would extend to the right (minimally) and rear of the property only, and would be

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generally contained within the existing setbacks. She testified that there was adequate screening on the side of the property, and that the application did not call for the removal of any existing buffer screening or trees on the property. The applicant's expert specifically referenced the amended architectural plans (Exhibit A-2) 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, and that a pre-existing side yard encroachment already was present. The addition would be aesthetically pleasing to the property. The house would also be completely re-designed and upgraded, and the material and colors would be consistent with the neighboring structures. There would be an improvement in the aesthetics. She also 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.

9. Borough Engineer, Michael Vreeland, P.E. reviewed the submissions by the applicant and prepared a Memorandum dated June 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 at both the June 17, 2020 meeting and the August 19, 2020 meeting, and testified that the proposed amended plans and addition presented in Exhibit A-2 would have no negative impact on the zone.

10. No member of the public appeared in connection with the two public hearings on 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 side-yard setback relief, and to permit the addition as proposed in the amended application as set forth in the Architectural Plans dated July 30, 2020 and marked as Exhibit A-2 in evidence; 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, applicant's professional and the Borough Engineer, in

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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, the sub-standard existing lot size, 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 in the rear of the property, and the removal of the detached accessory structure. In addition, the architecture will be consistent with the present architecture in the neighborhood, and it will be an aesthetic improvement; and

**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, including a soil movement permit.
- 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 and stormwater management, so as not to negatively impact any surrounding properties.

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**BE IT FURTHER RESOLVED** construction shall proceed in accordance with this Resolution, the approved plans and drawings dated July 30, 2020 (Exhibit A-2) marked in evidence, the testimony of the applicants and their professional, 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



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KEVIN QUINN, Chairman

Attest: September 16, 2020

  
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JOSEPH DALOISIO, SECRETARY

Adopted: September 16, 2020