

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

DATE: *June 17, 2020*

RESOLUTION# LUB 20-12

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 20-12

**LAND USE BOARD OF THE BOROUGH OF ALLENDALE
RESOLUTION APPROVING
APPLICATION FOR VARIANCE FOR JENNIFER & DANIEL DEVIR
BLOCK 913, LOT 4
(a/k/a 30 GREY AVENUE)**

WHEREAS, the applicants, JENNIFER & DANIEL DEVIR, the owner of the property located at 30 Grey Avenue, known as Block 913, 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 April 1, 2020 for approval of a variance for a proposed addition to the premises, which is located in the A zone, from the Allendale Code, Zoning; and

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WHEREAS, the application seeks a variance since the property addition as proposed would result in a 15.3 foot right yard setback, whereas a 23.4 foot setback is required, and a front yard set back of 31.4 feet, whereas a 35 foot front yard setback is required.

WHEREAS, the application specifically seeks approval to construct a single-story addition in the right rear of the existing split-level dwelling, and to add a porch to the front of the premises; and

WHEREAS, the application seeks specific variance relief for side and front yard encroachments; 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 the applicant's architect, Mary Fitzpatrick Scro, AIA, 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 30 Grey Avenue, known as Block 913, Lot 4, 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 Mary Fitzpatrick Scro, AIA, dated March 2, 2020, various photographs and correspondence. These plans and exhibits were in evidence and reviewed and examined by the members of the Land Use Board.

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4. Borough Engineer, Michael Vreeland, P.E. reviewed the submissions by the applicant and prepared a Memorandum dated April 10, 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, which due to the structure in place, requires minimum side yard setbacks of 23.4 feet. The proposed addition would result in a right-side yard setback of 15.3 feet and a left side yard setback of 23.08 feet, and a front yard setback of 31.4 feet where 35 feet is required.

6. The proposed addition is primarily in the rear of the existing premises, and will include a new basement and new first-floor family room, along with reconfiguration of the kitchen and other living areas and a porch and other aesthetic improvements to the front of the structure.

7. The applicant's architect was sworn and accepted as an expert in the field of architecture. She testified as to the existing conditions of the property, and that the applicants were seeking to construct an addition to the home to better accommodate their family and more efficiently configure the interior space. Alternative plans which would not require substantive variance relief were considered but not deemed feasible. The proposed rear addition would extend to the rear of the property, and the rear of the structure would be 112 feet from the rear property line. She testified that there was adequate screening on the rear of the property with existing landscaping, 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 architectural plans and survey depicting the proposed addition and testified that the unique and irregular shape of the property, namely the "pie" shape of the lot and undersized lot, are hardships justifying variance relief. The addition would be aesthetically pleasing to the property, functional for their family and would not be observable from the roadway since it would extend to the rear and be shielded from neighbors by existing vegetation which would remain. The house would also be upgraded with significant aesthetic improvements to add charm and appeal, such as the front porch, windows and gables, and the material and colors would be consistent with the existing structure and neighboring structures. The applicant's architect 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.

8. Borough Engineer, Michael Vreeland, P.E. reviewed the submissions by the applicant and prepared a Memorandum dated April 10, 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.

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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, and expressed support for the project and grant of the variance.

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 right side-yard and front-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's architect 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 "pie" shape of the property and the pre-existing non-conforming nature of the property, namely the undersized lot and existing non-conforming front yard setback. 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 towards the rear of the existing premises and shielding

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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

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 lighting, 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

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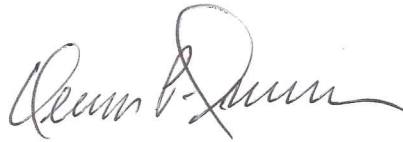
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and shall publish a brief notice of the decision in the official newspaper, the cost of which shall be paid for by the applicant.

Approved:

ALLENDALE LAND USE BOARD



KEVIN QUINN, Chairman

Attest:


JOSEPH DALOISIO, SECRETARY

Adopted: June 17, 2020