

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

**DATE: November 18, 2020**

**RESOLUTION# LUB 20-16**

Land Use Board	Motion	Second	Yes	No	Abstain	Absent
<b>Bergen</b>		✓	✓			
<b>Daloisio</b>	✓		✓			
<b>Davis</b>			✓			
<b>Kistner</b>						✓
<b>Lovisolo</b>			✓			
<b>Sasso</b>						✓
<b>Sirico</b>			✓			
<b>Bernstein</b>						✓
<b>Quinn</b>			✓			
<b>Yaccarino-Alt. #1</b>			✓			
<b>Forbes-Alt. #2</b>			✓			

Carried ☒ Defeated ☐ Tabled ☐

**RESOLUTION 20-16**

**LAND USE BOARD OF THE BOROUGH OF ALLENDALE  
RESOLUTION APPROVING  
APPLICATION FOR VARIANCE FOR MONICA MONTAGNI  
BLOCK 1104, LOT 5  
(a/k/a 228 HILLSIDE AVENUE)**

**WHEREAS**, the applicant, MONICA MONTAGNI, the owner of the property located at 28 Hillside Avenue, known as Block 1104, 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 September 26, 2020 for approval of a variance for a proposed addition to the premises, which is located in the AA residential 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 deficient side-yard setback and a deficient rear-yard setback. It is noted that the left side-yard setback is pre-existing non-conforming, and the lot is undersized for the zone.

**WHEREAS**, the application specifically seeks approval to add a second floor and construct a rear addition to the existing dwelling for an addition of 1,625 square feet, and

**WHEREAS**, the application and plans were submitted and the Land Use Board considered the matter at the October 19, 2020 meeting of the Land Use Board at which the applicant appeared virtually and testified; and

**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 228 Hillside Avenue, known as Block 1104, Lot 5, on the Tax Map of the Borough of Allendale. The property is located in the AA residential zone.
3. As part of the application, the applicant submitted the Land Use Board application packet, Architectural Plans prepared by Greig Anderson, R.A., dated August 14, 2020, last revision August 26, 2020, various photographs, maps 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 October 13, 2020. The Memorandum was in evidence and reviewed and examined by the members of the Land Use Board. Mr. Vreeland's report made the following observations:

Non-Conforming Conditions:

3.2.1. Section 270-37A (2) – Additions to nonconforming structures:

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**Comment:** The existing left side yard setback is nonconforming. Increasing the gross building area increases the side yard setback requirement. Therefore, the alteration would create additional encroachment into the new required side yard.

3.2.2. Section 270-64B – Side yard setbacks:

**Comment:** The plans and zoning permit table indicate the proposed addition will encroach  $\pm 2.1$  ft, into the required 23.9 ft left side yard setback. The proposal will increase the side yard requirement and the existing dwelling will encroach  $\pm 9.1$  ft into the enhanced side yard.

3.2.3. Section 270-54D – Rear yard setback:

**Comment:** The proposed portico will be encroaching  $\pm 6.3$  ft into the required 50 ft rear yard setback.

Mr. Vreeland also provided testimony relative to the application to the Land Use Board at the meeting.

5. Variances are required because this property located in the AA residential zone, due to the structure in place, lot size and proposed enlarged floor area, requires minimum side yard setbacks of 22.9 feet. The proposed addition would result in a left-side yard setback of 14.8 feet, which presently exists and is non-conforming. The proposed addition would also result in a 43.7-foot rear yard setback, where 50 feet is required.

6. The proposed addition will include a new second floor, a rear addition, expanded rear porch with portico, and in-ground swimming pool.

7. At the hearing, the applicant was sworn and 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 her and her family. The property backs onto an access road on property belonging to the Board of Education, so there are no rear yard neighbors. She also testified as to the unique existing property conditions, such as the off-center placement of the existing structure in the rear and left side of the lot and the sub-standard lot size. The addition would add a new kitchen, family room and bedrooms. Any improvements on the property would require variance relief, due to the pre-existing non-conformity on the side yard. The proposed addition in the plans would extend to the rear of the existing structure, add a second floor and add an expanded rear deck with portico. 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 her family and would be shielded from neighbors on the sides of the property by existing vegetation which would remain. The house materials and colors would be consistent with the existing structure and neighboring structures.

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8. 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 and rear-yard setback relief, and to permit the addition as proposed in the application as set forth in the Architectural Plans dated August 14, 2020, last revision August 26, 2020; 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, 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 lack of neighbors in the rear, the placement and configuration of the primary structure on the lot, the location of a portion of the proposed addition in the rear of the

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property. 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 permits, 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 obtained and paid for in full to the Borough of Allendale by the applicant, including a soil movement permit, tree removal permit (if required), pool construction permit and plot plan.

B. Applicant shall obtain Soil Erosion and Sediment Control approval from the Bergen County Soil Conservation District.

C. Applicant and her 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, and lighting, so as to avoid any spotlights or light spillage from the proposed portico.

D. Applicant shall submit an "As-Built" survey prior to requesting a Certificate of Occupancy.

**BE IT FURTHER RESOLVED** construction shall proceed in accordance with this Resolution, the approved plans and drawings dated August 14, 2020, last revision August 26, 2020, marked in evidence, the testimony of the applicant, 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

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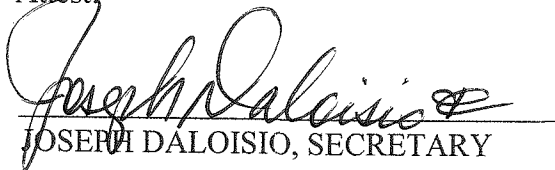
attorney, if any, without charge; and to all other persons who request the same and pay the required fee therefore. The Secretary shall also file a copy of this Resolution in the offices of the Borough Clerk, Building Inspector, Construction Code Official, Tax Assessor and the Borough Attorney and shall 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

  
\_\_\_\_\_  
KEVIN QUINN, Chairman

Attest:

  
\_\_\_\_\_  
JOSEPH DALOISIO, SECRETARY

Adopted, November 18, 2020