

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

DATE: 07/18/2018

RESOLUTION# LUB 18-17

Carried Defeated Tabled

Land Use Board	Motion	Second	Yes	No	Abstain	Absent
Bergen						
Davis			✓			
Daloisio			✓			
Kistner	✓					
O'Toole		✓				
Sasso						
Sirico			✓			
White						
Quinn			✓			
Kearl – Alternate			✓			
Lovisolo - Alternate						

**RESOLUTION DENYING APPEAL AND
DENYING APPLICATION FOR VARIANCE OF
PAUL GROSSO & ADRIANA CIFUENTES
BLOCK 1702, LOT 16
(a/k/a 151 PARK AVENUE)**

WHEREAS, the applicants, Paul Grosso & Adriana Cifuentes, the owners of the property located at 151 Park Avenue, known as Block 1702, Lot 16 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 March 21, 2018 for appeal of the zoning officer's decision, and approval of a variance for the premises, which is located in the A zone, from the Allendale Code, Zoning; and

WHEREAS, the application seeks a variance to permit the premises to exist in the A zone without a garage, contrary to Section 270-18 of the Allendale Code, Zoning; and

WHEREAS, the application also seeks appeal of the Allendale Zoning Officer's determination dated March 2, 2018 that a proposed accessory structure is not in compliance with

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the provisions of Section 270-14 Accessory Buildings A. & B.(1) of the Allendale Borough Code; and

WHEREAS, the Land Use Board considered the matter at the June 20, 2018 regular public meeting of the Land Use Board at which the applicant was represented by counsel, and at which the applicant's Professional Planner, Richard Preiss, P.P., 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 given by the applicant in accordance with applicable law.
2. The property is located at 151 Park Avenue, known as Block 1702, Lot 16, on the Tax Map of the Borough of Allendale. The property is located in the "A" residential zone. The application was in evidence.
3. The applicant submitted neither proposed plot plans nor architectural plans or drawings of any proposed accessory structure, or the existing conditions of the property. The only property related material submitted was a survey of the property dated March 13, 2018 with the application. There were no alterations to the survey to indicate the proposed location of any accessory structure, nor were any photographs of the existing condition of the premises submitted with the application. The survey alone was in evidence as part of the application 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 5, 2018. The Memorandum was in evidence and reviewed and examined by the members of the Land Use Board.
5. The applicant's Professional Planner, Richard Preiss, PP, was accepted as an expert in the field of Planning, and testified as to the request for variance relief. Mr. Preiss did not submit a written report. Mr. Preiss testified that the property was located on a small, narrow lot, and that other premises on the block do not have garages. He conceded that the Allendale Zoning Code requires garages for every residence, and that the applicants were seeking variance

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relief to permit their residence to exist without a garage. The previously existing garage had been converted through a renovation in the home to living space, thereby eliminated the space for the garage. Mr. Preiss further testified that in his opinion the application met the criteria for a C(1) "hardship" variance since the building department had been unclear and/or inconsistent as to the requirements for an accessory structure; the applicants were unaware of the need for a garage when they developed their renovation plans and completed their renovation; the lot was narrow; the layout of the lot was not conducive to a garage; there was space to park cars on the front and side of the existing structure; it would be a hardship to comply with the requirement for a garage since it would require extending the driveway along the side of the existing structure to provide for an accessory structure and parking in the rear of the lot. Mr. Preiss also testified that in his opinion it would be a hardship to the applicants to add a garage, and that there would be no substantial benefit of the garage since it would add impervious coverage to the lot. He further testified that in his opinion there would be no adverse impact on the zone plan or neighborhood, and that the Master Plan does not identify driveway parking without a garage as a zoning problem.

6. The Borough's Planner, Edward J. Snieckus, Jr. LA, PP, LLA, ASLA, asked questions of the applicant's Planner relating to his testimony, including his assertion that the applicant had met the requirements for a C(1) "hardship" variance and the intent of the Borough Ordinance requiring a garage.

7. The Borough's Engineer, Michael Vreeland, P.E., testified as to the details of the application, including the lack of information about the accessory structure proposed by the applicant, the elements and requirements of the Ordinance pertaining to garages, and the requirements for variance relief under the Municipal Land Use Law.

8. Land Use Board members asked questions of the applicants' Planner, the applicants' counsel, and the Borough professionals relative to the merits of the application.

9. Members of the public appeared in connection with the application and asked questions of the applicants' Planner, and provided testimony related to the merits of the application.

NOW THEREFORE, BE IT RESOLVED that the Allendale Land Use Board hereby denies approval of the requested variance and denies the appeal of the Zoning Officer's determination; and

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BE IT FURTHER RESOLVED that the Allendale Land Use Board hereby determines that the requested variance does not meet the factual or legal criteria for a "hardship" variance under N.J.S.A. 40:55D-70C.(1); and

BE IT FURTHER RESOLVED that the Allendale Land Use Board hereby determines that the applicants have failed to prove a hardship that would permit variance relief under the circumstances of the application, in that the hardship would appear to have been self-created; that the alleged hardship does not relate to any exceptional situation uniquely affecting the specific piece of property or the structures lawfully existing thereon; and the criteria for a C(1) "hardship" have not been demonstrated by the applicants and their professional through the evidence submitted and the testimony elicited at the public hearing; and

BE IT FURTHER RESOLVED that the Allendale Land Use Board finds and concludes that no "special reasons" exist for the granting of the variance, and that the grant of the variance would not advance the purposes of the Municipal Land Use Law. The Board further finds that there would be substantial detriment to the public good, and that the benefits of the deviation do not substantially outweigh any detriment. The Board also concludes that the grant of the variance will substantially impair the intent and purpose of the Allendale zone plan and zoning Ordinances. In fact, there is no zoning benefit to the proposed variance since the general intent of the garage Ordinance is to keep cars off of roadways and driveways, which is a valid intent and goal of zoning.

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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



KEVIN QUINN, Chairman

Attest:



JOSEPH DALOISIO, SECRETARY

Adopted: July 18, 2018