

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

DATE: 04/10/2019

RESOLUTION# LUB 19-14

Land Use Board	Motion	Second	Yes	No	Abstain	Absent
Bergen			✓			
Daloisio					NO ✓	✓
Davis			✓			
Kistner		✓	✓			
Lovisolo			✓			
Sasso					✓	
Sirico	✓		✓			
Bernstein					✓	
Quinn			✓			
Kearl – Alt. #1					✓	✓
Yaccarino – Alt. #2						

Carried ☒ Defeated ☐ Tabled ☐

**LAND USE BOARD OF THE BOROUGH OF ALLENDALE
RESOLUTION APPROVING
APPLICATION FOR VARIANCE FOR G. MALARCZUK. & S. LIEW
BLOCK 402, LOTS 8 & 9
(a/k/a 17 CRESCENT PLACE)**

WHEREAS, the applicants, George Malarczuk & Shirleyn Liew, the owners of the property located at 17 Crescent Place, known as Block 402, Lots 8 & 9 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 February 15, 2019 for 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 since the property and structure is pre-existing non-conforming, and the application specifically seeks to construct a second story addition and an extension of a bathroom to the existing dwelling; and

WHEREAS, the application seeks specific variance relief for rear yard encroachment, as the existing dwelling encroaches into the rear yard setback, in violation of Section 270-57D; and

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WHEREAS, the Land Use Board considered the matter at the March 20, 2019 regular meeting of the Land Use Board at which the applicants, George Malarczuk & Shirley Liew, personally appeared and testified under oath;

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 applicants in accordance with applicable law.

2. The property is located at 17 Crescent Place, known as Block 402, Lots 8 & 9, 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 Andrew Fethes Architects, P.A., dated January 2, 2019; a Survey Plan prepared by Olmland & Osterkorn, Inc., dated January 14, 2019; a Tax Map exhibit; a photographs exhibit and a property listing. 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 March 9, 2019. 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 and proposed as part of the application, requires a minimum rear yard setback of 50 feet. The existing rear yard setback is 35.5 feet, and the proposed addition would result in the same setback of 35.5 feet from the dwelling to the rear property line.

6. The applicants were sworn and testified that they were seeking to construct a modest bedroom and bathroom addition to the home over the rear of the existing structure. They specifically referenced the architectural plans depicting the proposed addition, and the survey which shows that an easement runs in the back of the property. The addition would be aesthetically pleasing to the property, functional for their family and would not be observable by neighbors since it would extend to the rear, as there is the wooded easement behind the property. It would also be shielded by natural vegetation and the buffer of the easement, and the nearest residence in

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the rear is a considerable distance from the present dwelling, as shown in the exhibits presented as part of the application and photographs. They also testified as to the unique existing property conditions, such as the adjacent utility easements on the rear and side of the property, the off-center placement of the existing structure and irregular shape of the lots.

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 to allow the continuation of the non-conforming condition at the premises, 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 applicants and the Borough Engineer, in connection with the testimony that the applicants are entitled to a "hardship" variance, due to the unique nature of the property, namely the irregular shape of the lots, off-center placement of the existing premises, and the adjacent easements. 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 expand the present non-conforming condition, and will not be obtrusive due to the placement and configuration of the primary structure

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on the lot, the distance to the nearest neighboring structure, the location of the proposed addition towards the rear of the existing premises, and shielding from the existing vegetation in the adjacent easements which will remain; and

BE IT FURTHER RESOLVED that the Allendale Land Use Board hereby grants approval of the requested variance, subject to the following condition, 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.

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.

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Approved:

ALLENDALE LAND USE BOARD



KEVIN QUINN, Chairman

Attest:



JOSEPH DALOISIO, SECRETARY

Adopted: April 10, 2019