

RESOLUTION
LAND USE BOARD
BOROUGH OF ALLENDALE
BERGEN COUNTY, NJ

DATE: 5/14/25

RESOLUTION: LUB 25-17

Land Use Board	Motion	Second	Yes	No	Abstain	Absent
Bergen					✓	
Warzala			✓			
Putrino	✓		✓			
Agugliaro						✓
Yaccarino					✓	
Dalo			✓			
Sirico			✓			
Wilczynski						✓
Butler		✓	✓			
Conte-Alt.#1						✓
-Alt. #2						

Carried ☐ Defeated ☐ Tabled ☐

LUB 25-17

LAND USE BOARD OF THE BOROUGH OF ALLENDALE
RESOLUTION APPROVING
APPLICATION FOR VARIANCE FOR
BILMAR PROPERTIES LLC
BLOCK 1005 , LOT 2
(a/k/a 240 WEST CRESCENT AVENUE)

WHEREAS, Bilmar Properties LLC, ("Applicant"), owner of the Property located at 240 W. Crescent Avenue, known as Block 1005, Lot 2 on the Tax Map, in the Borough of Allendale, County of Bergen and State of New Jersey ("Property"), applied to the Land Use Board of the Borough of Allendale, seeking amended site plan approval and bulk variance relief from provisions of the Borough of Allendale Land Use Code;

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WHEREAS, the Applicant received development approvals in 2018-19 to continue development of the nonresidential property with a one-story masonry building addition near the northern end of the subject site ("Prior Approval").

WHEREAS, the Applicant constructed the improvements under the terms of the Prior Approval in a manner that deviated from the terms of the Prior Approval, relative to the side yard setback of the constructed addition.

WHEREAS, the Applicant filed an application with the Borough Land Use Board seeking to ratify the Prior Approval existing and deviating as-built condition;

WHEREAS, the Applicant sought the following variance relief pursuant to N.J.S.A. 40:55D-70c: deviation from Section 270-75D related to side yard setback requirements (50' required, 50' granted under Prior Approval, 47.39' as-built / existing and requested relief).

WHEREAS, an Affidavit of Service and Publication was timely tendered to the Board, which, upon review and confirmation of proper notice, conferred jurisdiction over the Board to commence public hearings on the Application;

WHEREAS, the Applicant, was represented by Harold P. Cook, III, Esq. and commenced prosecution of the application on April 23, 2025;

WHEREAS, the Applicant presented Mark Borst, principal of the Applicant entity, who was sworn and testified as to the as-built condition and structure deviation from the terms of the Prior Approval;

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WHEREAS, Mr. Borst testified as to discrepancy between the Prior Approval grant and the existing construction, confirming that same was due to scrivener error and failure of the design professionals to reconcile older / outdated design plan iterations, resulting in the approximate 2.6' offending setback deviation in the northern side yard area, as-built;

WHEREAS, the witness and Applicant's counsel proffered that the offending condition is imperceptible from the naked eye, given the location and property size and configuration;

WHEREAS, the witness and Applicant's counsel proffered that correction of the offending condition would require razing portions of the existing structure, which would be very difficult if not impossible to achieve under the circumstances;

WHEREAS, the witness thoroughly explained, to the satisfaction of the Board, that the offending condition was not performed with intent, but rather the result of an error in the field, during construction, the impact of which is nominal under the specific facts of the case;

WHEREAS, the Applicant offered and the Board accepted the position that the purposes of the Municipal Land Use Law were advanced by the grant of relief, and warranted pursuant to N.J.S.A. 40:55D-70c2;

WHEREAS, no members of the public appeared during the course of the entire Application in opposition to same;

WHEREAS, the Borough of Allendale Land Use Board that it hereby makes the following findings of fact and conclusions:

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1. The Applicant is the owner of the Property.
2. The Application was duly noticed, conferring statutory jurisdiction over the Board to commence proceedings.
3. The Property is approximately 2.59 acres, located at 240 W. Crescent Avenue, known as Block 1005, Lot 2, on the Tax Map of the Borough of Allendale.
4. The Property is located in the D-1 Zone.
5. The Applicant submitted a complete Land Use Application and associated documents, including an As-Built Survey, prepared by GB Engineering, LLC, dated August 2, 2024;
6. The Property is developed with an existing commercial structure and associated parking areas, with the abutting Lot 1, Block 1005 also being under the ownership and control of the Applicant, although not implicated in the instant application;
7. The Applicant satisfied the requisite statutory standard, to the satisfaction of the Board, warranting the grant of variance relief, pursuant to N.J.S.A. 40:55D-70c2, based upon the specific facts of the case and the unique circumstances involving same.
8. No members of the public appeared in connection with the Application.

NOW THEREFORE BE IT 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 relief from the Borough of Allendale Code, subject to the following conditions, which shall be complied with prior to the issuance of a construction permit:

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1. 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, prior to the issuance of any permits.
2. Applicant shall comply with all terms and recommendations of the Board Engineer Report dated April 18, 2025, prior to issuance of any permits, including, but not limited to, the requirement of the Applicant to:
 - a. Extended buffer area, adjacent to the existing building;
 - b. Prohibit parallel parking between the subject building and curb;
 - c. Establish a no-parking area along the curb;
 - d. Eliminate the first striped parallel parking space;
 - e. Implement a no-parking area in the corner of the "employee" parking area;
 - f. Remove existing parking space at right front building corner and develop the site parking areas in comport with the terms of the Prior Approval, as modified herein;
 - g. Submit an updated as-built plan, confirming compliance with the final approved site conditions, prior to the issuance of a Certificate of Occupancy.

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3. Applicant shall Install bollards on-site, to the satisfaction of the Board Engineer and Building Department (with final location placement and quantities to be determined by the respective Borough Officials).
4. Applicant shall all requirements of the Borough Fire Official relative to site access and circulation suitability.
5. All terms and conditions of the Prior Approval not explicitly modified herein shall carry forward and remain applicable.
6. Applicant shall satisfy any and all approvals, permits, waivers or other disposition as may be required from any agency having jurisdiction, prior to issuance of permits.
7. 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, prior to the issuance of any permits.
8. Construction shall proceed in strict accordance with this Resolution, the approved plans and drawings marked in evidence, the testimony of the Applicant in accordance with all applicable State, County and Municipal codes, ordinances, rules and regulations.

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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



MICHAEL SIRICIO, Chairman

Attest:



MELISSA BERGEN, VICE CHAIRWOMAN

Adopted: May 14, 2025