

RESOLUTION
LAND USE BOARD
BOROUGH OF ALLENDALE
BERGEN COUNTY, NJ

DATE: 4/21/2025

RESOLUTION: LUB 25-13

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 25-13

LAND USE BOARD OF THE BOROUGH OF ALLENDALE
RESOLUTION APPROVING
APPLICATION FOR VARIANCE FOR
MICHAEL MAHLE & DANNA MARINO
BLOCK 2206, LOT 7
(a/k/a 246 PARK AVENUE)

WHEREAS, Michael Mahle and Danna Marino, ("Applicant") are the owners of the Property located at 246 Park Avenue, known as Block 2206, Lot 7 on the Tax Map, in the Borough of Allendale, County of Bergen and State of New Jersey (the "Property"), applied to the Land Use Board of the Borough of Allendale, seeking variance relief from provisions of the Borough of Allendale Land Use Code;

WHEREAS, the Applicant sought to develop a two-story addition to the existing single-family residential dwelling structure and a two-car garage;

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WHEREAS, the Applicant appeared before the Board on November 13, 2024, February 12, 2025 and March 19, 2025, together with the Applicant's sworn and qualified witnesses, to prosecute the application;

WHEREAS, the Applicant sought the following variance relief pursuant to N.J.S.A. 40:55D-70c:

- Deviation from the applicable front yard setback requirement – Section 270-57B (existing dwelling encroaches 14.0' into the required 35' setback); with the nonconforming condition being an existing condition, not to be exacerbated by the proposal, however, portions of the proposed addition would continue to violate the setback and be developed within the existing encroachment;
- Deviation from the applicable rear yard setback requirement – Section 270-57D (proposed dwelling encroaches ±15.6 ft and the proposed deck encroaches ±28.7 ft into the required 50 ft rear yard setback);
- Deviation from the applicable lot area requirement – Section 270-57E (existing lot area, proposed to remain, at ±11,063 SF, where zone requires minimum 20,000 SF);
- Deviation from the applicable lot width requirement – Section 270-57F (existing lot width, proposed to remain, at ±91.2 ft, where zone requires 115 ft);
- Deviation from the applicable Floor Area Ratio requirement – Section 270-63A (proposal increases the FAR from 21.3% to 32.9%, where 22.87% is allowed);

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- Deviation from the applicable Gross Building Area requirement – Section 270-63B (proposal increases the GBA from 2,360 SF to 3,640 SF, where 2,531 SF is allowed);
- Deviation from the applicable side yard setback requirement – Section 270-64C (proposed GBA requires enhanced setback of 25.2') which was confirmed to be violated at the time of issuance of zoning permit denial and during the course of the hearing relative to portions of the addition;

WHEREAS, an Affidavit of Service and Publication, dated 10.25.24, 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 Application commenced with prosecution on November 13, 2024, when the Applicant was sworn and provided testimony in support of the application;

WHEREAS, on November 13, 2024 the Applicant presented the following witnesses who were sworn and qualified as experts: Jeffrey Houser, PE Houser Engineering, LLC, in the field of civil engineering and John Musinski, AIA, JMA Architects, LLC, in the field of architecture;

WHEREAS, the Applicant testified as to necessity of developing an addition to the single-family residential dwelling on the Property, for reasons including the age and lack of practical functionality in the existing home, due to its age.

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WHEREAS, Mr. Houser testified as to the unique nature of the lot, occasioned by existing Property non-conformities and environmental constraints, impacting what would otherwise be typical, usable lot area, for purposes of development that is permitted in the zone;

WHEREAS, Mr. Houser testified as to the proposed stormwater management infrastructure and its corresponding mitigation efforts to be achieved by the proposal, if implemented;

WHEREAS, Mr. Musinski testified to the massing and details of the proposed addition, confirming that same is not oversized when compared to the Property or surrounding area structures and uses;

WHEREAS, Mr. Musinski confirmed that the proposed addition's finish materials would match and correspond with the existing dwelling;

WHEREAS, during the course of the initial hearing, the Applicant and Board considered (i) the appropriateness of the size of the proposed addition and (ii) the necessity of establishing adequate planning proofs to support the Applicant's request for variances, which included relief pursuant N.J.S.A. 40:55D-70d, whereupon the Applicant determined that the design plans would be reconsidered for prospective downward adjustment and testimony would continue at a subsequent meeting with qualified planning testimony;

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WHEREAS, the Applicant continued prosecution on February 12, 2025, recalling Mr. Houser, to testify to the revised plans, dated January 13, 2025, which reflected reductions in the relief initially sought relative to the dwelling expansion and discussion as to prospective relocation and screening of the proposed HVAC and standby generator, accessory improvements, so as to mitigate associated relief and prospective impact of same to the abutting properties;

WHEREAS, the Applicant recalled Mr. Musinski, to testify as to the revised architectural plans, dated January 10, 2025, describing the reduction of building area, massing and relief, as amended, corresponding to a reduction of square footage, FAR, gross building area and impervious coverage, as compared to the initial public hearing;

WHEREAS, the Applicant, presented Thomas Ricci, PP, a licensed professional planner, who was sworn, qualified and offered testimony in support of the variance relief requested by the Applicant, testifying that same advanced purposes A and B of the Municipal Land Use Law and were warranted pursuant to N.J.S.A. 40:55D-70d4 and N.J.S.A. 40:55D-70c, as modified by the plan revisions presented throughout the course of the application to date, given the undersized nature of the Property, the uniqueness of the Property relative to environmentally sensitive areas, undevelopable areas abutting the Property, and the existence of an easement bounding portions of otherwise developable yard areas;

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WHEREAS, at the conclusion of the February hearing presentation, the Applicant determined that they would continue to consider plan amendments to further reduce the still non-conforming FAR, as well as the relocation of proposed accessory equipment;

WHEREAS, the Applicant concluded prosecution of the Application on March 19, 2025, with continued testimony of the Applicant and Mr. Musinski, testifying as to further revised plans, and mitigating efforts via additional plan revisions and supplements, in response to prior comments of the Board, including the further reduction of FAR, garage area, gross building area, overall square footage and removal of the standby generator;

WHEREAS, the Applicant introduced the following exhibits in support of the Application during the course of the public hearing:

- Exhibit A-1 – NJDEP Flood Hazard Area Plan.
- Exhibit A-2 – Hand-marked architectural plans, prepared by JMA Architects, Inc., revised January 10, 2025.
- Exhibit A-3 – Hand-marked engineering plans, prepared by Houser Engineering, LLC, revised January 13, 2025.

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 ±11,063 SF located at 246 Park Avenue, known as Block 2206, Lot 7, on the Tax Map of the Borough of Allendale.
4. The Property is located in the A Residence Zone.
5. The Applicant submitted a complete Land Use Application and associated documents, including September 26, 2024 Borough of Allendale Code Enforcement Office correspondence (prepared by Anthony Hackett, Construction & Zoning Official); Plan set entitled, "Proposed Addition, 246 Park Avenue, Allendale Borough, Block 2206 Lot 7", prepared by Houser Engineering, LLC, originally dated June 6, 2024 and revised as noted herein; Plan entitled "Survey of Property For, 246 Park Avenue, Situated In The, Borough of Allendale, Bergen County, New Jersey" prepared by Arthur J. Schappell Jr. PLS, dated June 17, 2024; and Plan set entitled "Proposed Additions, & Renovations, Mahle Residence, 246 Park Avenue, Allendale, New Jersey" prepared by JMA Architects, LLC originally dated September 11, 2024, and revised as noted herein.
6. The Property is developed with a single-family residential dwelling and associated amenities.

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7. Existing conditions on the Property render it nonconforming to side yard setback and lot area requirements.
8. Existing conditions on the Property, including easements and environmentally sensitive areas render development, otherwise consistent with and promoted by the land development code and Master Plan, impractical or impossible without the grant of relief.
9. The Applicant's proposed addition exacerbates and enhance the nonconforming conditions.
10. A majority of the immediately surrounding properties are developed with multi-story, single-family dwelling structures of a size comparable to that which is proposed.
11. Removal of the existing garage out of the NJDEP regulated floodway is desirable.
12. The proposed development serves to cause the removal of the existing garage out of the NJDEP regulated floodway.
13. The stormwater management controls for the Property, under the proposed conditions, are an improvement from existing conditions.
14. The Applicant's sworn and qualified professionals, through testimony and presentation of plans and exhibits, as amended and modified to reduce the requisite relief throughout the course of the public hearing, 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-70c and N.J.S.A. 40:55D-70d(4).

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15. 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:

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 the terms and recommendations of the Board Engineer Report dated November 11, 2024, prior to issuance of any permits, including, but not limited to, the requirement of the Applicant to submit and address:
 - a. Soil Movement Permit;
 - b. Plot Plan;
 - c. All requisite, final and unconditional approvals and permits issued by the NJDEP;
 - d. All requisite floodplain management requirements associated with the approved development.

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3. The Applicant shall submit an As-Built Plan, to be reviewed and approved by the Board Engineer, prior to submission for a Certificate of Occupancy.
4. Applicant shall satisfy any and all approvals, permits, waivers or other disposition as may be required from any other agency having jurisdiction, including but not limited to all requisite, final and unconditional permitted required from the NJDEP, prior to the issuance of any permits.
5. 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.
6. 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.
7. Accessory improvements (including HVAC), located within any setback areas and/or designated front yard areas, shall be appropriately screened, the details of which, inclusive of the submission of a planting schedule by the Applicant, shall be subject to final review and approval by the Board Engineer.
8. The standby generator has been withdrawn from consideration.

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9. The Applicant shall implement construction in strict comport with the details of the last amended plans presented to the Board (civil engineering plans prepared by Houser Engineering, LLC, last revised March 5, 2025; architectural plans, prepared by JMA Architects, LLC, last revised February 28, 2025).


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: April 21, 2025