

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

DATE: September 19, 2018

RESOLUTION# LUB 18-21

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

Carried Defeated Tabled

**LAND USE BOARD OF THE BOROUGH OF ALLENDALE
RESOLUTION APPROVING
APPLICATION FOR VARIANCE FOR G. & J. DEE
BLOCK 503, LOT 11
(a/k/a 66 CHEROKEE AVENUE)**

WHEREAS, the applicants, Gabriel & Jennifer Dee, the owners of the property located at 66 Cherokee Avenue, known as Block 503, Lot 11 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 July 30, 2018 for approval of variances for the premises, which is located in the AA zone, from the Allendale Code, Zoning; and

WHEREAS, the application seeks variances since the property and structure is pre-existing non-conforming, and the application specifically seeks to construct an addition to the existing dwelling, and add a mudroom, basement space, and to expand the kitchen at the rear of the house; and

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WHEREAS, the application seeks specific variance relief for lot area, lot width, side yard setback, floor area ratio, front yard setback, and rear yard setback; and

WHEREAS, the Land Use Board considered the matter at the August 15, 2018 regular meeting of the Land Use Board at which the applicants, Gabriel & Jennifer Dee, 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 properly given by the applicants in accordance with applicable law.
2. The property is located at 66 Cherokee Avenue, known as Block 503, Lot 1, on the Tax Map of the Borough of Allendale. The property is located in the AA residential zone. The application was in evidence.
3. As part of the application, the applicant submitted architectural plans by Anderson Architects with a last revision date of July 30, 2018, a description of the proposed structure, a marked-up tax map excerpt, a survey and photographs. 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 August 9, 2018. The Memorandum was in evidence and reviewed and examined by the members of the Land Use Board.
5. Variances are required because an AA residential zone requires a minimum lot area of 26,000 square feet; a minimum lot width of 130 feet; a maximum floor area ration of 25%; minimum side yard setbacks of 20 feet; minimum front yard setbacks of 40 feet; a minimum rear yard setback of 50 feet; all of which are exceeded by the existing premises and the proposed improvements.

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6. The applicants were sworn and testified that they were seeking to construct an addition to the existing primary residence to expand their kitchen, and add a mudroom and basement game room. They specifically referenced the architectural plans depicting the proposed addition, and the photographs submitted with the application. They also testified that the addition would result in them giving up outside deck space for interior space, and that the deck that was being removed would not be replaced. The addition would be aesthetically pleasing to the property, functional for their family and would not be observable from the roadway due to vegetation and placement. They also testified as to the unique existing property conditions, such as the unconstructed and unimproved "paper street" (Oolltera Avenue) which converts the property into a corner lot, the fact that the property is undersized as it presently exists, and the existing vegetation on the rear and sides of the property.

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 variances to expand the non-conforming conditions at the premises, and to permit the exceedance of the maximum Floor Area Ratio; and

BE IT FURTHER RESOLVED that the Allendale Land Use Board hereby determines that the variances hereby granted constitute a "hardship" variance under N.J.S.A. 40:55 D-70C.(1); and

BE IT FURTHER RESOLVED that the Allendale Land Use Board hereby determines that the variance to exceed the Floor Area Ratio hereby granted is appropriate under N.J.S.A. 40:55 D-70d(4) in that "special reasons" for the grant of the variance have been proven by the applicant; and

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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 on the corner lot, due to the unconstructed and unimproved “paper street” (Oolooteka Avenue), the existing non-conformities, and the testimony that there will be no or negligible impact on the surrounding properties and zone plan. 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 greatly outweigh the negative criteria to the Borough zoning ordinances and the zone plan and neighborhood. In addition, the variance requested will not excessively expand the present non-conforming conditions, and will not be obtrusive due to the placement and configuration of the primary structure on the lot, the location of the proposed addition in the rear of the existing premises, and shielding from the existing vegetation which will remain; and

BE IT FURTHER RESOLVED that in granting such variance to exceed the maximum Floor Area Ratio, the Board finds and concludes that “special reasons” exist for the granting of the variance, and that the grant of approval of the variance advances the purposes of the Municipal Land Use Law. The existing Floor Area Ratio is 25.48%, which exceeds the maximum permitted of 25%. The proposed Floor Area Ratio will be 28.29%. The Board concludes that this increase is minimal, in light of the unique circumstances and characteristics of the property. The Board further finds that there is no substantial detriment to the public good and that the benefits of the deviations

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substantially outweigh any detriment. The Board also concludes that the grant of the variance will not substantially impair the intent and purpose of the Allendale zone plan and zoning Ordinances.

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

B. Surface and roof run-off must be addressed in consultation with the Borough Engineer so that there is safe and adequate drainage of surface and roof run-off, so as not to impact adjoining properties and/or the street.

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: September 19, 2018