

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

DATE: November 14, 2018

RESOLUTION# LUB 18-23

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 CERTIFICATION OF
CONTINUANCE OF NON-CONFORMING USE
BLOCK 906, LOT 4
(a/k/a 56 MYRTLE AVENUE)**

WHEREAS, the applicant, Laurie Bailey, Trustee of the Margaret Grosman Trust, the owner of the property located at 56 Myrtle Avenue, known as Block 906, Lot 4 on the Tax Map, in the Borough of Allendale, County of Bergen and State of New Jersey, applied pursuant to N.J.S.A. 40:55D-68 to the Land Use Board of the Borough of Allendale in an application dated September 7, 2018 for Certification of Continuance of a Non-Conforming Use of a three (3) family residential structure on the property, which is located in the R-2 zone, from the Allendale Code, Zoning; and

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WHEREAS, the application seeks a determination and certification from the Land Use Board that the non-conforming use, to wit, a three (3) family residence and structure, pre-dates the enactment of the Allendale Zoning Code on July 24, 1958, and therefore should be allowed to continue as a three (3) family use; and

WHEREAS, the applicant is appealing the decision of the Allendale Zoning Official, conveyed via letter dated August 31, 2018, denying the request for a Certificate of Compliance for a Non-Conforming Structure, and

WHEREAS, the Land Use Board considered the matter at the October 17, 2018 regular meeting of the Land Use Board at which the applicant's counsel, Craig S. Hughes, Esq., appeared and presented evidence to the Land Use Board;

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 applicant in accordance with applicable law.
2. The property is located at 56 Myrtle Avenue, known as Block 906, Lot 4, on the Tax Map of the Borough of Allendale. The property is located in the R-2 residential zone, which permits two (2) family structures and uses. The application was in evidence.
3. As part of the application, the applicant submitted documentary evidence that the structure on the property was built in 1910, and that the third floor of the premises had been completed as living quarters in 1921. The documentary evidence also showed that the third floor has been continually occupied by tenants since 1949. The application also included a description of the structure, a survey and photographs. These plans and exhibits were in evidence and reviewed and examined by the members of the Land Use Board.

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4. Proofs presented also confirmed that the Allendale Zoning Code was enacted by the Borough of Allendale on July 24, 1958, and that this enactment codified the R-2 zone as a two (2) family zone in the Borough. Throughout the years, the property has consistently been recognized by Borough of Allendale officials as a legal three (3) family structure, and recognized as a pre-existing non-conforming use by the Borough.

5. It was further determined that the three (3) family premises has consistently been in compliance with the Borough of Allendale's inspections and permits, and recognized as a lawful three-family dwelling under State statute.

6. The applicant is not making any request for any addition, alteration, expansion or changes to the use of the property. The application is solely to confirm that the existing three (3) family use is permitted and may continue as such as a three (3) family dwelling, and the Land Use Board's conclusions are limited to these facts.

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, pursuant to N.J.S.A. 40:55D-68, hereby grants the application, and directs the Construction Code Official to issue a Certificate of Compliance for a Non-Conforming Structure to the applicant, subject to the following conditions:

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. The applicant shall continue to comply 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



KEVIN QUINN, Chairman

Attest:



JOSEPH DALOISIO, SECRETARY

Adopted: November 14, 2018