

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

DATE: June 19, 2019

RESOLUTION# LUB 19-15

Carried Defeated Tabled

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

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LAND USE BOARD OF THE BOROUGH OF ALLENDALE
RESOLUTION APPROVING
APPLICATION FOR VARIANCE FOR CARMEL FALCONE & BILL COBB
BLOCK 2203, LOT 5
(a/k/a 38 OAKWOOD ROAD)

WHEREAS, the applicants, Carmel Falcone & Bill Cobb, the owners of the property located at 38 Oakwood Road, known as Block 2203, Lot 5 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 March 25, 2019 for approval of a variance for the premises, which is located in the AAA zone, from the Allendale Code, Zoning; and

WHEREAS, the application seeks a variance since the property and structure is pre-existing non-conforming. The application and plans propose to construct an addition to the existing dwelling, a cabana to the rear of the existing pool and other associated amenities; and

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WHEREAS, the application seeks specific variance relief for side yard encroachment; and

WHEREAS, the Land Use Board considered the matter at the May 15, 2019 regular meeting of the Land Use Board at which the applicants and their professional architect, 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 38 Oakwood Road, known as Block 2203, Lot 5, on the Tax Map of the Borough of Allendale. The property is located in the AAA residential zone and the dwelling sits off-center on the property. The lot area is 40,000 square feet. The application was in evidence.

3. As part of the application, the applicant submitted Architectural Plans prepared by Z + Architect, LLC, last revision March 22, 2019; a Survey Plot Plan prepared by Weissman Engineering Co, dated January 25, 2019; a Tax Map exhibit and several 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 April 8, 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 AAA residential zone, due to the structure in place and proposed as part of the application, requires minimum side yard setbacks of 40 feet. The proposed addition would result in a side yard setback of 31.2 feet on the left side of the structure. The present side yard setback on the left side is 31.2 feet.

6. The applicants' expert, Mary Scro, was sworn and was accepted by the Board as an expert in the field of architecture. She testified that the applicants were seeking to update and expand the premises and add a cabana near the existing pool. Ms. Scro specifically referenced the architectural plans depicting the proposed addition, and the current state and positioning of the structure off-center on the property, which created a hardship. The addition would result in an

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encroachment on the left side of the structure of the same distance as existing, and construction and improvements would only take place on the right-side yard, which would maintain

conformance with the setbacks. Thus, all new construction would take place within the 40-foot setbacks. The existing sunroom would remain and be the only part of the structure which encroaches into the setback. Testimony also was presented that the proposed addition would be aesthetically pleasing to the property, functional for the applicants' family and would not be readily observable from the roadway or neighbors since it would be shielded by existing vegetation, and that the applicant would be amenable to additional vegetation to further shield the addition if the existing vegetation was disturbed.

8. Two members of the public, one who indicated that he was an adjacent neighbor, appeared in connection with the application to ask questions of the applicants' professional.

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 applicants' request for a variance to allow the non-conforming condition to remain at the premises, and to permit the addition as proposed in the application, and plans dated March 22, 2019; 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' professional 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, namely the off-center positioning of the structure on the property, and the existing non-conformity. The application and variance would improve the property and improve the aesthetics and functionality of the property, without any substantial impact on the surrounding properties or

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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 conditions, as all improvements will be made to the conforming side of the structure, will not be obtrusive due to the placement and configuration of the primary structure on the lot, and shielding from the existing vegetation which will remain and/or be enhanced; and

BE IT FURTHER RESOLVED that the Allendale Land Use Board hereby grants approval of the requested variance, 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.
- C. Consultation with and approval in the field by the Borough Engineer of appropriate landscaping buffer from adjacent lot, if the existing vegetation buffer is removed or disturbed, in the discretion of the Borough Engineer.

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 their professional and 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.

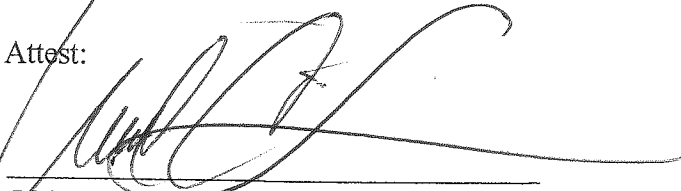
Approved:

ALLENDALE LAND USE BOARD



KEVIN QUINN, Chairman

Attest:



JOSEPH DALONZO, SECRETARY

MICHAEL A. SIMCO Vice Chairman

Adopted: June 19, 2019