

May 16<sup>th</sup>, 2022  
Hawthorne, NJ

The regular meeting of the Zoning Board of Adjustment of the Borough of Hawthorne was held on the above date at 6:45 p.m. in the Council Meeting Room of the Municipal Building, 445 Lafayette Avenue, Hawthorne, New Jersey, with the following present:

**FLAG SALUTE**

Chairman Gallagher invited all present to join him in the Pledge of Allegiance.

“Adequate Notice of this meeting has been posted on the Municipal Bulletin Board, published in the legal newspaper of the Borough and a schedule, including date and time, provided to all persons entitled by law to same. “

**ROLL CALL**

Chairman.....	John F. Gallagher
Vice Chairman.....	David A. Schroter
Board Member.....	Victor Cuttitta, Jr.
Board Member.....	Eleanor Wenzke
Board Member .....	Lyle Hatch
Board Member.....	Jodi DeMarco
Board Member.....	Marco Totaro
Board Member (Alternate #1) .....	Brian J. Lind
Board Member (Alternate #2) .....	Danilo Ramirez

Also present was Board Attorney, James Delia, Zoning Officer Gene DeAugustines, Board Secretary Joan Herve, Board Engineer, Mike Kelly and Board Planner, John Szabo, Jr.

**APPROVAL OF MINUTES**

Chairman Gallagher entertained a motion to approve the minutes of the meeting of April 18, 2022. Moved by Schroter, seconded by Cuttitta. On a roll call vote, Ayes: Cuttitta, Hatch, Lind, Totaro, Schroter, Gallagher. Abstain: DeMarco, Ramirez & Wenzke, Nays: none. Motion Carried.

**CORRESPONDENCE**

- a) Rayna Laiosa, Hawthorne Environmental Commission to Pledge Support for NJ Wildlife Action Plan.

**OLD BUSINESS**

**Gary and Celene Luscher, 103 Mountain Avenue (block274, lot 4)**

*\*note: Vice Chairman Schroter recuses himself from this application as the applicant is a client of his. Brian Lind, Alternate (1) Board Member will hear this application.*

This site is located in the Residential (R-1) Zone.

Applicant is seeking variance approval to construct a detached 3-bay garage on their existing lot. The property contains a single-family, shed and in-ground pool making the garage a third accessory structure where two are permitted pursuant to Article 540-8B (accessory Structure) and 54014 (D) Accessory

Structure Height. Where has the garage height will be 17.9' feet where 15 feet is permitted. And any other variances deemed necessary.

Applicant asked the board if his location is in an average height built site before he presents his application. Mr. Delia stated it is not the board's job to give advice on how to proceed and what proof to present. That is why it is best for you to hire a professional to move forward. Mike Kelly, Board Engineer stated to Mr. Luscher that he needs to meet the building height definition in the Hawthorne Boro Code Book which reads " The vertical distance measured from the average line of the finished exterior grade at the building line to the highest point of the roof for flat roofs, to the deck line of mansard roofs and to the meant height between eaves and ridges for gable, hip and gambrel roofs".

It was decided to carry this application to the June 20, 2022 meeting.

Chairman Gallagher entertained a motion to table this application to the June 20, 2022, moved by Lind, seconded by Wenzke. On a roll call vote, Ayes:, Cuttitta, DeMarco, Hatch, Lind, Totaro, Wenzke, Gallagher, with the exception of Schroter who abstained. Nays: none. Motion Carried.

**Diamond Brook Hollow Condominium Association, 45 Royal Avenue (block 29, Lot 10)**

This site is located in the Residential-Apartments Medium Density (R-3) Zone.

At the applicant's request, this hearing will be tabled to the June 20, 2022 meeting. Applicant is seeking to install decks in the rear of ten (10) of the existing residential units on the property. Variances requested for Minimum Side Yard Variance and a Maximum Impervious Lot Coverage Variance (section 540a – SCH). The applicant submits that the variance can be granted under both NJSA 40:50D-70(c) 1 and 2 and request a submission waiver for wetlands certification and any other variances deemed necessary.

Chairman Gallagher entertained a motion to table this application to the June 20, 2022 meeting, moved by Totaro, seconded by Hatch. On a roll call vote, Ayes:, Cuttitta, DeMarco, Hatch, Totaro, Wenzke, Schroter, Gallagher. Nays: none. Motion Carried.

**NEW BUSINESS**

**53 Braen Avenue, LLC, 10 Sotnick Street (block 287, Lot 8)**

*Note: Board Member Schroter recused himself from this application as he is employed by one of the LLC partners and Board Member Wenzke recused herself due to appearing on the applicant's 200' list; both left the dais and sat in the audience.*

*Alternate 1 Board Member Brian Lind & Alternate 2 Board Member Ramirez voted on this application.*

Attorney Bruce Whitaker explained this hearing is being held on the revised Application pursuant to this Consent Order of Remand, (*which he distributed to all Board Members*), on the proposed Settlement in the matter entitled 53 Braen Avenue, LLC v. Borough of Hawthorne Zoning Board of Adjustment. As part of the proposed settlement on record, the Applicant proposes to construct a two-family home which shall be compliant with all bulk requirements of the Zone. As a condition of approval, a deed restriction would be provided that the property could not be subdivided at any future time, and that restriction would run with the land and be restriction for all future owners and successors in title. The rear portion of the property shall remain in its natural state and serve as a buffer and that too would be a restriction in a deed as a condition of approval.

Mr. Riggs application's Engineer discussed the updated plans dated 5/9/2022 original date 6/29/2020. Lot size remains the same 45,556 square feet. 1.05 acres. Mr. Riggs explained the only change that was previously submitted is the set of steps coming down from the dwelling, they pulled the dwelling back to make sure the steps were outside the sanitary sewer easement. So instead of being a 50 foot setback, it will be a 60 foot setback. In the rear. the dwelling will still remain in that limited disturbance that was previously approved as part of the original project.

Board Planner, John Szabo suggested the applicant add a split rail fence to ensure nothing can be disturbed in the rear of the dwelling site and should be included as part of Deed Restriction. Mr. Whitaker agreed.

### **PUBLIC COMMENTS**

Chairman Gallagher opened the meeting to the public. He stated if anyone desires to be heard, state your name and address for the record.

Todd, 39 Braen Avenue, Kathy De Brock, 71 Braen Avenue and Carmen, 993 Lafayette Ave ext., Residents reiterated again for years we heard there would be no flooding, the impact would be minimal, experts came in and they were totally wrong. They have all experienced flooding problems. We have nothing but problems on Braen Avenue and they feel this project is just going to add to it. It's in an R-1 zone and it should stay an R-1 Zone. They asked the board to take a real hard look at it before making any decisions.

Discussion ensued, *Board Engineer, Mike Kelly will take a look at the problems these residents are experiencing.*

Chairman Gallagher entertained a motion to approve or deny this application. Moved by Ramirez to approve the above application, seconded by DeMarco. On a roll call vote, Ayes:, Cuttitta, DeMarco, Hatch, Lind, Ramirez, Totaro, Gallagher. Nays: none. Motion Carried.

### **Mr. & Mrs. Mariella, 23 Sicomac Road (block 297.01 lot 4)**

*For the record, Board Member Totaro stated his children go to school with the applicant's children and asked the Board Attorney if this is a conflict of interest. Mr. Jim Delia stated this is not a conflict, therefore he is able to sit in on this hearing.*

Applicants Architect/Planner, Ed Easse gave an overview of this application. Mr. Easse explained his client proposes to remove a portion of the existing second floor of a one-family dwelling and construct an add-a level of 1,284.4 square feet in area (28'-4" X 45'-4") with cantilevered portion of the front of the dwelling to match the existing and a two (2) feet rear yard cantilever over the rear first floor wall (entire length of dwelling) and construct a roof-over only porch cover over the exiting concrete front yard patio entry. Additional work to include removal of an existing shed and removal of an existing roof over a rear concrete patio.

### **PUBLIC COMMENTS**

Chairman Gallagher opened the meeting to the public. He stated if anyone desires to be heard, state your name and address for the record. Seeing none, Chairman Gallagher closed the meeting to the public.

Chairman Gallagher entertained a motion to approve or deny this application. Moved by Schroter to approve the above application, seconded by Cuttitta. On a roll call vote, Ayes:, Cuttitta, DeMarco, Hatch, Totaro, Wenzke, Schroter, Gallagher. Nays: none. Motion Carried.

**ADJOURNMENT**

At 8:30p.m. Chairman Gallagher entertained a motion to adjourn the regular meeting, moved by Hatch, seconded by Cuttitta. All in favor, “Aye”.

THE NEXT REGULAR MEETING OF THE ZONING BOARD OF ADJUSTMENT WILL BE ON

**~MONDAY, JUNE 20<sup>th</sup>, 2022 ~**

**THE WORK SESSION WILL BEGIN AT 6:45P.M. WITH THE REGULAR MEETING IMMEDIATELY FOLLOWING**

Respectfully Submitted,

*Joan Herve, Secretary*