

RESOLUTION #2017-008

**RESOLUTION OF THE BOARD OF ADJUSTMENT
OF THE BOROUGH OF HAWTHORNE**

In the matter of:

**John Luppino and Catherine Luppino (“Applicant”)
35 Cider Mill Road
Lot 6, Block 293.04
Hawthorne, New Jersey 07506**

WHEREAS, The Applicant made application to the Borough of Hawthorne Board of Adjustment for bulk variance approval in connection with the premises known as Lot 6, Block 293.04, commonly referred to as 35 Cider Mill Road (the “Property”), located in the R-1-Single Family Residential Zone; and

WHEREAS, as a result of the Application, Applicant seeks to replace an existing garage (which has a flat roof) with a new garage (with a gable roof), resulting in a variance for height and the number of stories. A 15 foot height is allowed and 18 feet is proposed. One story is allowed and two stories are proposed;

WHEREAS, the Board reviewed this matter at its public hearing on August 21, 2017; and

WHEREAS, after due consideration and deliberation at the aforementioned hearing, the Board did vote upon the Application and instruct the Board Attorney to prepare a Resolution memorializing the vote taken; and

WHEREAS, the Zoning Board of Adjustment of the Borough of Hawthorne makes the following findings of fact, based upon the evidence presented at its public hearing:

1. The Applicant is the owner of the Property. The Property is located in the R-1 Single Family Residential District which is designed for single family residential use.

2. The Applicant has submitted satisfactory evidence of having given statutory notice pursuant to N.J.S.A. 40:55D-12.

3. The Applicant submitted the requisite Application, dated July 15, 2017, along with a plan prepared by Edward Easse, dated May 22, 2017 consisting of three (3) sheets. Architect/Planner Edward Easse was sworn and qualified as an expert in both his fields. He testified in support of the application. Based on his testimony the Board finds that Applicant has demonstrated hardship in that the proposed garage sits upon a steep slope. This allows for at grade access at both levels. The Applicant will only use the garage for normal garage purposes, such as to store personal vehicles and other personal equipment. It shall not be used for living quarters or for commercial purposes.

5. Relief exists pursuant to N.J.S.A. 40:55D-70(c)(1) which requires that the Applicant, in order to demonstrate hardship, must show that, due to an existing condition relating to a specific piece of property or the structures lawfully existing thereon, the strict application of the zoning ordinance in question would result in undue hardship upon the developer warranting a variance from the regulation in question. This is known as a hardship or "C1" variance.

6. In this instance, the Applicant has demonstrated that due to the steep grade of the lot, the strict application of the particular regulations of the Borough of Hawthorne Zoning Ordinance would be an undue hardship upon the Applicant. The Board further finds that requested variance does not pose a substantial detriment to the public good and does not substantially impair the purpose and intent of the Borough of Hawthorne Zone Code or Zone Plan.

7. In reviewing the Application, evidence and testimony, the Board finds that the variance requested by the Applicant can be granted in this instance. The Applicant has demonstrated that the proposed structure will be consistent with the existing character of the neighborhood and will promote the purposes of zoning set forth at N.J.S.A. 40:55D-2. The Board in this instance finds that the benefits to be derived from the granting of the variance requested outweigh any possible detriment resulting from the approval of the variances.

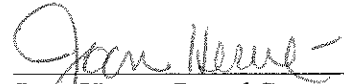
NOW, THEREFORE, BE IT RESOLVED by the Board of Adjustment of the Borough of Hawthorne that the Application of John Luppino and Catherine Luppino with respect to the Property, requesting variance relief as set forth above, be and is APPROVED for the requested variance for number of stories and height of an accessory structure, subject to the terms and conditions hereinafter set forth:

1. The foregoing findings of fact and conclusions of law are incorporated herein as if set forth at length.
2. The Applicant shall obtain approval from all other governmental agencies having jurisdiction over the subject Application and development, if any.
3. The Applicant shall pay all fees due and owing to the Borough of Hawthorne, including the posting of any application fees, review fees, inspection fees and/or escrow fees which may be due, prior to the issuance of any building permits.
4. The Applicant shall comply with all applicable rules, regulations, ordinances and statutes of the Borough of Hawthorne, County of Passaic and State of New Jersey with regard to the application.

The undersigned certifies that the within Resolution was adopted by the Board and memorialized herein pursuant to N.J.S.A. 40:55D-10(g) on September 18, 2017.



Raymond Hallock, Chairman



Joan Herve, Board Secretary

OFFERED BY: DeRitter
SECONDED BY: Sasso
VOTE: Ayes: 7
Nays: 0