

RESOLUTION #2017-009

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

In the matter of:

**Artur Klawinowski (“Applicant”)
81 Parmelee Avenue
Lot 3, Block 140
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 3, Block 140, commonly referred to as 81 Parmelee Avenue (the “Property”), located in the R-1-Single Family Residential Zone; and

WHEREAS, as a result of the Application, Applicant requests variance approval to allow construction of a deck at the rear of the existing home and directly over an existing patio. The variance relief sought is as follows :

(a) minimum rear yard setback: 50 feet required/ A 40 foot setback to the deck and 35 foot setback to the edge of stairs is proposed;

(b) minimum side yard setback: 15 feet required/11 feet proposed.

WHEREAS, the Board reviewed this matter at its public hearing on September 18, 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 (undated), along with a plan prepared by Andrew Podberezniak, R.A., dated July 29, 2017. The Applicant Artur Klawinowski, was duly sworn as a witness and qualified as an expert in both Architecture and Professional Planning. The Board is satisfied with his testimony and so finds that this proposal will not further encroach beyond the existing rear yard setback(with the exception of the proposed stairs) and side yard setback.

4. 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.

5. In this instance, the Applicant has demonstrated that due to the existing conditions of the property, namely that the proposed deck is built directly over the existing patio, serves as 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.

6. In reviewing the Application, evidence and testimony, the Board further 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 Artur Klawinowski with respect to the Property, requesting variance relief as set forth above, be and is APPROVED for the requested side yard (single and combined) setback and rear yard setback variances enumerated above, 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 October 16, 2017.



Raymond Hallock, Chairman



Joan Herve, Board Secretary

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