

**RESOLUTION #2017-010**

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

**In the matter of:**

**Abby Dekkers (“Applicant”)  
128 Pasadena Place  
Lot 14, Block 270  
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 14, Block 270, commonly referred to as 128 Pasadena Place (the “Property”), located in the R-1-Single Family Residential Zone; and

**WHEREAS**, as a result of the Application, Applicant requests approval to allow construction of a new two car garage which will be built into an existing front yard slope area, resulting in variance relief as follows:

(a) minimum front yard setback 50 feet required/8 feet proposed to the garage;

(b) minimum side yard setback 15 feet required/12 feet proposed to the garage.

**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 June 26, 2017, along with a Survey Plan prepared by Morgan Engineering and Surveying, dated February 20, 2017; and an Architectural Plan prepared by Daniel Russell AIA, dated June 21, 2017. The Applicant and Applicant's architect, Daniel Russell, were sworn in. Mr. Russell was accepted as an expert in the field of architecture. The witnesses testified and the Board finds that there is an existing one car garage essentially built into the front yard slope of the Property. The garage is so small, Applicant cannot fit any vehicles into it. The proposal is to enlarge the garage to store two vehicles adequately. This is the best location for the proposed garage and the only perceived negative is that the top of the garage will have a flat surface which could be used as a patio. The Applicant stipulated that the flat surface shall not be used as a deck or for any other leisure activity. It will be appropriately screened and shall include planters to help deter its use as a patio.

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: there is an existing garage which is too small, and this proposal is to replace the garage in the same general vicinity, except that the proposed garage is larger, 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.

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 Application of Abby Dekkers 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.

5. The roof of the proposed garage shall be properly screened and shall not be used as a deck or for any other recreational or leisurely purpose.

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.

  
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Raymond Hallock, Chairman

  
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Joan Herve, Board Secretary

OFFERED BY: De Ritter  
SECONDED BY: Schroter  
VOTE: Ayes: 7  
Nays: 0