

RESOLUTION #2016-016

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

In the matter of:

**Kenneth Klabouch (“Applicant”)
35 Sherman Avenue
Lot 14, Block 231
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 231, commonly referred to as 35 Sherman Avenue (the “Property”), located in the R-1-Single Family Residential Zone; and

WHEREAS, as a result of the Application, Applicant seeks the following variances:

- (i) Side Yard Setback: Required side yard setback (one yard) is 15 feet.

Applicant proposes a side yard setback of 7.3 feet. The required side yard setback (both sides) is 40 feet. Applicant proposes a 14.6 feet aggregate side yard;

- (ii) Front Yard Setback: Minimum 50 feet is required. Applicant proposes

34.24 feet.

WHEREAS, the Board reviewed this matter at its public hearings on October 17, 2016 and November 21, 2016; and

WHEREAS, the Applicant submitted revised plans prepared by Matthew G. Evans, AIA bearing a last revision date of November 2, 2016; 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, along with a plan prepared by Matthew G. Evans, last revised November 2, 2016 consisting of one (1) sheet.
4. Applicant proposes a basement, first floor and second floor expansion of the right (east side) of the home. It is noted the property is undersized, and the house has a deficient existing front yard setback. Also, the proposed lot coverage is 16% where 25% is permitted which is well below the maximum.
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 location of the existing structure, the strict application of the particular regulations of the Borough of Hawthorne Zoning Ordinance would be an undue hardship upon the Applicant. It is noted that lot coverage

remains well under the permitted amount. The Board finds that any perceived negative impact created by the setback variance is de minimus. The Board further finds that such setback 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 from the Applicant and the public, the Board finds that the side yard and front yard setback variances 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 variances 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 Kenneth Klabouch with respect to the Property, requesting variance relief as set forth above, be and is APPROVED for the requested side yard and front yard setback variance enumerated above, subject to the terms and conditions hereinafter set forth:

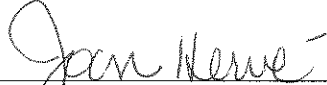
1. The foregoing findings of fact and conclusions of law are incorporated herein as if set forth at length.
2. The Applicant shall obtain approval from all other governmental agencies having jurisdiction over the subject Application and development, if any.
3. The Applicant shall pay all fees due and 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 December 19, 2016.



Raymond Hallock, Chairman



Joan Herve, Board Secretary

OFFERED BY: Schroter
SECONDED BY: Gallagher
VOTE: Ayes: 6
Nays: 0