

**RESOLUTION #2019-001**

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

**In the matter of:**

**Marco and Dayna Totaro (“Applicant”)  
19 Hillcrest Avenue  
Lot 22, Block 292  
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 22, Block 292, commonly referred to as 19 Hillcrest Avenue (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 first floor and second floor addition, resulting in the following variance relief:

(a) minimum front yard setback to Center Line of Right-of-Way is 75 feet required. A setback of 61.2 is proposed;

(b) minimum front yard setback to property line is 50 feet required. A setback of 36.2 feet is proposed; and

**WHEREAS**, the Board reviewed this matter at its public hearing on January 28, 2019; 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 January 2, 2019, along with plans prepared by Edward A. Easse, R.A. dated December 13, 2018 (last revised December 28, 2018). The Applicant's architect and planner, Edward Easse, was sworn and accepted as an expert in architecture and planning. The Applicants were also sworn. The Board finds, based on their testimony and the plans presented that:

- a) Applicant proposes a 14 ft x 28 ½ ft, two story addition. Applicant has owned the property for approximately the last five years;
- b) They have two children;
- c) They propose an addition to provide additional space/living area to accommodate room for one of the Applicant's parents;
- d) The property is oriented in a "pronounced diagonal" as stated by Mr. Easse. In other words the home located on this corner lot sits on an angle and already has existing non-conformities. The closest part of the addition to a residential neighbor is the proposed 33 foot side yard setback to Block 292, Lot 21; and
- e) The Applicant stipulates and agreed to execute and record a deed restriction satisfactory to the Board, prohibiting two family use so long as the premises remain a one family residential zoning district.

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, the type, location and size of the home and the fact that the home is on an odd angle on a corner lot resulting in practical difficulties and 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 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 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 Marco and Dayna Totaro with respect to the Property, requesting variance relief as set forth above, be and is APPROVED for the requested front 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.

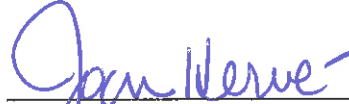
3. The Applicant shall pay all fees due and owing to the Borough of Hawthorne, including the posting of any application fees, review fees, inspection fees and/or escrow fees which may be due, prior to the issuance of any building permits.

4. The Applicant shall prepare a deed restriction, satisfactory to the Board, restricting the property to single family use, so long as the property remains zoned for single family use. Upon approval by the Board, Applicant shall have the deed restriction recorded in the Passaic County Registrar's Office and return a recorded copy of such deed restriction when completed.

5. 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 February 25, 2019.

  
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Jack Gallagher, Vice Chairman

  
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Joan Herve, Board Secretary

OFFERED BY: *Schrater*  
SECONDED BY: *Cuttitta*  
VOTE: Ayes: *6*  
Nays: *0*