

RESOLUTION #2019-007

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

In the matter of:

**119 4th Ave, LLC (“Applicant”)
119 Fourth Avenue at Utter Avenue
Lot 1, Block 167
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 1, Block 167, commonly referred to as 119 Fourth Avenue (the “Property”), located in the R-2-Single Family Residential Zone; and

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

(i) The request is for approval of a two family house with a side yard setback of 18 feet where 20 feet is required;

WHEREAS, the Board reviewed this matter at its public hearing on November 25, 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-2 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 October 31, 2019, along with a plan prepared by Matthews G. Evans, AIA dated September 17, 2019, consisting of one (1) sheet. Mr. Matthews G. Evans was sworn and qualified as an expert in architecture and planning. He testified in support of the application. Applicant's sole member, Sinan Alimi, also testified in support of the application. Based on his testimony the Board finds:

(a) The Property is a corner lot and is approximately 56 feet wide, where 60 feet is required. (A prior variance was granted to allow the insufficient lot width- see Resolution #2017-005);

(b) The home, which is under construction, meets all setback, coverage and height requirements except for the requested variance.;

(c) The Property's lot width is unduly narrow and represents a hardship;

(d) The setback encroachment is for a two foot overhang. The foundation and elevation of the home is otherwise compliant with the setback requirement; and

(e) Absent the overhang, the home would be a box like structure, with little aesthetic appeal. The proposed overhang will provide a better aesthetic.

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 narrowness of the lot and the fact that the lot meets or exceeds all other bulk zoning parameters, 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 inclusive of a better visual environment. 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 119 4th Ave, LLC with respect to the Property, requesting variance relief as set forth above, be and is APPROVED for the requested side 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 pay all fees demanded by the Construction Code Official and/or Zoning Officer, it being acknowledged by Mr. Alimi that the overhang was built without first received the required approval from this Board.

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 December 16, 2019.



Raymond Hallock, Chairman



Joan Herve, Board Secretary

OFFERED BY: *Gallagher*
SECONDED BY: *Chamberlin*
VOTE: Ayes: *7*
Nays: *0*