

RESOLUTION #2024-003

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

In the matter of:

**(the “Applicant”)
40 Alexandria Avenue (the “Property”) Lot 13, Block 260
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 Property, located in the R-2-One and Two Family Residential Zone; and

WHEREAS, as a result of the Application, Applicant seeks to construct a two story addition to an existing two family residence (a permitted use in the R-2 zone);

WHEREAS, Applicant seeks the following specific relief:

- a) Minimum Side Yard (One): A minimum side yard setback of 10 feet is required.
A side yard setback of 4.90 feet is existing and proposed;
- b) Minimum Side Yard (Both): A combined side yard setback of 25 feet is required.
A combined side yard setback of 24.40 feet is proposed;
- c) Minimum Front Yard: A front yard setback of 20 feet is required. A front yard setback of 11 feet is existing and proposed;
- d) Maximum Impervious Coverage: A maximum impervious coverage of 50% is permitted. An impervious coverage of 69.62% is proposed; and
- e) Required Driveway Separation: A minimum distance of 5 feet is required between a driveway and a side lot line. A zero foot separation is proposed.

WHEREAS, the Board reviewed this matter at its public hearings on January 22, 2024 and February 26, 2024; 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 One and Two Family Residential District.

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 September 28, 2023, along with the following:

A. Plans entitled, “Addition and Alterations to the Stier/Rivera Residence, 40 Alexandria Avenue, Hawthorne, New Jersey” prepared by Joseph J. Bruno, A.I.A. dated October 25, 2023, last revised February 12, 2024; and

B. Survey dated September 14, 2000, prepared by William J. Darmstetter;
and

C. A series of photographs marked into evidence during the public hearing.

4. Applicant seeks to construct a two story addition to this two family home, making it more suitable for living. Applicant will enclose the existing open porch, expand the first floor kitchen, and otherwise provide appropriate residential accommodations. The second floor expansion results in a three bedroom unit (the first floor has two bedrooms, thus a total five

bedrooms for the house is proposed). A new uncovered rear deck is proposed also. There are pre-existing non conformities for lot area (6,500 s.f. required and 5,000 s.f. existing) and lot width (65 feet required and 50 feet existing). The existing location of the home is non-conforming with deficient side yard and front yard setbacks (the first floor expansion aligns with the north side edge of the second floor overhang). The proposed addition essentially remains within the existing front and side yard setbacks. The proposal meets the rear yard setback considerably. Also, at the Board's urging, Applicant expanded the width of its driveway so as to provide maximum capacity for parked cars. There is a resulting impervious coverage variance (69.62%, where 60.62% exists) and a variance for the location of the driveway (zero foot setback) which the Board concludes are appropriate and necessary under the circumstances. No members of the public opposed the application.

5. Relief exists pursuant to N.J.S.A. 40:55D-70c(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 undersized nature of the Property and existing size and location of the home, the strict application of the particular regulations of the Borough of Hawthorne Zoning Ordinance would be an undue hardship upon the Applicant. It is also noted that the addition does not encroach any further than the existing side yard or front yard setbacks of the house. The Board further finds that the requested variances do not pose a substantial detriment to the public good and do 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. 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 [REDACTED] with respect to the Property, requesting variance relief as set forth above, be and is APPROVED for the requested variances, 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. Subject to all information, stipulations, testimony and evidence presented by Applicant during the hearing.

6. Subject to compliance with the Boswell Engineering reports dated December 13, 2023, December 20, 2023 and February 16, 2024.

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 March 18, 2024.

John F. Gallagher, Chairman

Joan Herve, Board Secretary

	Motion	Second	Aye	Nay	Abstain	Absent
Chairman Gallagher						
Vice Chairman Schroter						
Board Member Cuttitta						
Board Member DeMarco						
Board Member Hatch						
Board Member Totaro						
Board Member Wenzke						
Board Member Lind (alt. 1)						
Board Member Ramirez (alt. 2)						