

RESOLUTION #2024-004

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

In the matter of:

██████████ (the “Applicant”)
94 Bamford Avenue (the “Property”) Lot 14, Block 144
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-1-One Family Residential Zone; and

WHEREAS, as a result of the Application, Applicant seeks to construct an open deck attached to the rear of the existing home;

WHEREAS, the Applicant submitted the following in support of the application:

- a) Borough of Hawthorne (Borough) Zoning Board of Adjustment Application for Variance, dated March 12, 2024 and consisting of seven (7) pages.
- b) Marked Survey entitled, “Plan of Survey, Prepared for Lot 14 in Block 144, Borough of Hawthorne, Passaic County, New Jersey”, prepared by Russell I. Knudson, P.L.S., of Fletcher Engineering, Inc., dated September 4, 1997.
- c) Plan Sketch, unknown preparer, and date, showing proposed dimensions.
- d) Concept Photographs of the rear of the building, undated.

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 4.00 feet is proposed;
- b) Minimum Side Yard (Both): A combined side yard setback of 20 feet is required.
A combined side yard setback of 12.5 feet is proposed;

c) Maximum Impervious Coverage: A maximum impervious coverage of 35% is permitted. An impervious coverage of 50.26% is proposed (46.3% is existing); and

WHEREAS, the Board reviewed this matter at its public hearings on May 20, 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 recitals set forth above are incorporated herein.
2. The Applicant is the owner of the Property. The Property is located in the R-One Family Residential Zone.
3. The Applicant has submitted satisfactory evidence of having given statutory notice pursuant to N.J.S.A. 40:55D-12.
4. Applicant seeks to construct an open deck which will be located at the rear of the home. The existing single and total side yard setbacks are non-conforming. Applicant proposes to build the open deck within the existing side yard setbacks of the home.
5. The existing impervious coverage already exceeds the permitted coverage at 46.3%. The excessive coverage is due in large part to the location of the existing detached garage located at the far right rear of the Property resulting in a long, large and curved driveway.
6. No members of the public opposed the application.
7. 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.

8. In this instance, the Applicant has demonstrated that due to the existing size and location of both the home and the driveway, 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 proposed deck 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.

9. In reviewing the Application, evidence and testimony, the Board 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 [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 May 10, 2024 and stormwater management requirements made by Boswell Engineering or the Borough of Hawthorne Building Department.

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 August 19, 2024.

John F. Gallagher, Chairman

Joan Herve, Board Secretary

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