

**RESOLUTION #2024-005**

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

**In the matter of:**

██████████ (the “Applicant”)  
126 Fourth Avenue (the “Property”) Block 164, Lot 10  
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 second story addition over the existing first floor of the dwelling;

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

- a) Borough of Hawthorne (Borough) Zoning Board of Adjustment Application for Variance, dated May, 2024 and consisting of seven (7) pages;
- b) Survey, prepared by Ryan R. Harris, P.L.S., dated June 13, 2023;
- c) Plans prepared by P+A2 Studio LLC consisting of four (4) sheets, dated April 4, 2024, last revised July 16, 2024;

**WHEREAS**, Applicant seeks the following specific relief:

- a) Minimum Side Yard: A minimum side yard setback of 10 feet is required.  
A side yard setback of .6 feet is existing and proposed;
- b) Minimum Front Yard: A front side yard setback of 20 feet is required.  
A front yard setback of 14.5 feet is existing and proposed; and

c) Maximum Rear Yard: A rear yard setback of 25 feet is required. A rear yard setback of 9.9 feet is existing and proposed.

**WHEREAS**, the Board reviewed this matter at its public hearings on August 19, 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-2 One and Two 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, due to unsafe conditions, razed the pre-existing home down to its foundation. This application seeks permission to rebuild the home on its existing foundation. The proposal also seeks to expand the size of the home, providing additional floor area on the second floor. The pre-existing side yard, front yard and rear yard setbacks were non-conforming. Applicant proposes to build the addition within the pre-existing yard setbacks of the home.
5. The existing impervious coverage and building height are compliant. It is also noted that the lot in question is extremely shallow (100 feet is required; 60.3 and 75.03 feet, respectively, exist).

6. The proposed location of the home (and as it pre-existed) is ideally located, with minimal negative impact on the adjacent properties. The new home will be an upgrade to the neighborhood.

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 the home and the extremely shallow lot depth, 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 addition does not encroach any further than the existing side yard, front yard or rear 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. The Board also determines there are “C2” grounds (NJSA 40:55D-70(c)(2)) supporting this application, since the Board concludes the proposed home location is the least intrusive on the surrounding properties and is an upgrade to the neighborhood.

10. 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 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 [REDACTED] with respect to the Property, requesting variances 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 August 9, 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 September 16, 2024.

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John F. Gallagher, Chairman

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Joan Herve, Board Secretary

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