

RESOLUTION #2024-007

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

In the matter of:

**[REDACTED]
148 Cedar Avenue (the “Property”) Lot 7, Block 103
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 7.6 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 21.2 feet is existing and proposed;
- c) Minimum Front Yard: A front yard setback of 20 feet is required. A front yard setback of 14.9 feet is existing and 13.1 feet is proposed;
- d) Maximum Impervious Coverage: A maximum lot coverage of 35% is permitted. An impervious coverage of 47.62% is proposed (43.60% exists); and

WHEREAS, the Board reviewed this matter at its public hearing on October 21, 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 August 1, 2024, along with the following:

A. Borough of Hawthorne Zoning Board of Adjustment, Application for Variance, dated August 1, 2024;

B. Borough of Hawthorne, Request for Property Owners List, undated;

C. Sample Notice to Property Owners, undated;

D. Request for Certification of Current Property Tax Payment, undated;

E. Borough of Hawthorne, Checklist for Required Submissions, to the Planning Board or the Zoning Board of Adjustment, dated August 13, 2024;

F. Seven (7) Site Photos;

G. Architectural Plans (3 sheets) entitled, "Cedar Residence, 148 Cedar Avenue, Hawthorne, NJ 07506", prepared by Hayk Ekshian, R.A., dated October 10, 2024;

H. Survey (1 sheet) entitled, “Survey of Property for 148 Cedar Avenue, Borough of Hawthorne, Passaic County, New Jersey”, prepared by Joseph F. Barbieri and Associates Inc., dated November 8, 2023; and

I. Site Plan (2 sheets) entitled “Variance Plan for 148 Cedar Avenue”, prepared by MCB Engineering Associates, dated October 10, 2024.

4. Applicant seeks to rebuild a portion of and add a level to this two family home, making it more suitable for living. The addition shall not further encroach the existing side yard setbacks but will increase lot coverage from 43.60% to 47.62%. There is a change in the front yard setback from 14.9 feet to 13.1 feet allowing for an open front porch and walkway. The proposed addition essentially remains within the existing front and side yard setbacks with the exception of the small front porch bump out. The proposal meets the rear yard setback considerably. Also, at the Board’s urging, Applicant will assure that there is a minimum of two (2) parking spaces per unit (a total of 4). The Applicant agreed these spaces will be located in the rear, near the garage and not in the driveway.

5. The width of the Property is severely narrow. Furthermore, the existing home already encroaches the permitted front and side yard setbacks.

6. 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.

7. 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.

8. 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 George and Nadine Vaccarino 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 September 9, 2024 and such other reports that are issued in connection with this 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 November 25, 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)						