

## RESOLUTION

**BOARD OF ADJUSTMENT  
BOROUGH OF HAWTHORNE  
COUNTY OF PASSAIC, STATE OF NEW JERSEY**

**LESLIE & KEITH E. PLASKON**

**Variance for Lot Coverage, Lot Width, Front Yard Setback,  
Right Side Yard Setback, Combined Side Yard Setback, &  
Distance Between Accessory Structures (Garage and Shed)**

**WHEREAS**, LESLIE & KEITH E. PLASKON (collectively, "Applicant"), having an address of 995 Lafayette Avenue, Hawthorne, New Jersey 07506, made application to the Board of Adjustment of the Borough of Hawthorne ("Board") seeking variance relief, hereinafter more fully described, from provisions of the Hawthorne Borough Ordinances, for property located at 995 Lafayette Avenue, Hawthorne, New Jersey 07506 ("Property"), also known as Block 287, Lot 20 on the Tax Assessment Map of the Borough of Hawthorne; and

**WHEREAS**, public hearing(s) were held upon the application on April 21, 2025, and the Applicant having shown, to the satisfaction of this Board, that proper notice was served upon all interested parties as required by Statute; and

**WHEREAS**, the Board having considered its own local knowledge and having inspected the property and the surrounding neighborhood, and having had opportunity to receive testimony from and question the Applicant, and opportunity was provided for any interested parties and the general public to be heard, and having carefully considered the application together with all testimony and evidence presented, and any reports, comments and recommendations provided by any applicable Borough and County departments and/or other agencies, hereby makes the following findings of fact and conclusions of law:

### **I. PRELIMINARY INFORMATION**

1. The subject Property is located in the R-1A Residential Zone of the Borough of Hawthorne and is developed with a pre-existing, nonconforming two-family, two-story residential dwelling. The Property has dimensions of 350.7 feet by 67 feet, totaling approximately 23,398 square feet.
2. The Applicant proposes the installation of an inground pool with a water feature and pool equipment, as well as the removal and replacement of an existing paver patio at the rear of the dwelling.

3. In the R-1A Zone, Section 540-170 and Chapter 540, Attachment 1 of the Borough Code dictate the Borough zoning requirements.
4. In support of the application, the Applicant has submitted the following items, each of which is expressly made a part of the application and is the basis of any Board decision unless otherwise specifically excepted herein:
  - a. Borough of Hawthorne, Zoning Board of Adjustment, Application for Variance, dated February 10, 2025.
  - b. Application Addendum, prepared by Christopher P. DePhillips, Esq., dated February 10, 2025
  - c. Borough of Hawthorne, Checklist for Required Submissions to the Planning Board or the Zoning Board of Adjustment, dated February 10, 2025.
  - d. Borough of Hawthorne, Building and Lot % Calculation Worksheet, author unknown, undated.
  - e. Site Plan (1 sheet) entitled, "Pool Plan, Soil Erosion, Sediment Control Plan, Notes & Details for Plaskon [...]", prepared by Paul Gdanski, PE, dated October 17, 2024, revised through November 15, 2024.

## **II. VARIANCE(S)/RELIEF SOUGHT**

5. The Applicant's proposal requires, and the Applicant is requesting, relief from the Borough of Hawthorne Zoning Code by way of the following variances:
  - a. Chapter 540, Attachment 1: Lot Coverage. The maximum permitted lot coverage in the R-A1 Zone is 25%. The proposed lot coverage is 27.7%; therefore, the Applicant requires and requests a variance in this regard.
  - b. Chapter 540, Attachment 1: Front Yard Setback. The minimum required front yard setback in the R-A1 Zone is 50 ft. The existing and proposed front yard setback is 22.3 ft; therefore, the Applicant requires and requests a variance in this regard.
  - c. Chapter 540, Attachment 1: Lot Width. The minimum required lot width in the R-A1 Zone is 125 ft. The existing and proposed lot width is 67 ft; therefore, the Applicant requires and requests a variance in this regard.
  - d. Chapter 540, Attachment 1: Side Yard Setback. The minimum required side yard setback in the R-A1 Zone is 15 ft. The existing and proposed right side yard setback is 13.9 ft; therefore, the Applicant requires and requests a variance in this regard.
  - e. Chapter 540, Attachment 1: Combined Side Yard Setback. The minimum required combined side yard setback in the R-A1 Zone 40 ft. The existing and proposed combined side yard setback is 34.7 ft; therefore, the Applicant requires and requests a variance in this regard.
  - f. Section 540-127(a)(2): Distance Between Accessory Structures. An accessory structure shall be located at least 6 ft from any other accessory structure. The existing and proposed distance between the existing shed and the existing garage is 3 ft; therefore, the Applicant requires and requests a variance in this regard.

### **III. FINDINGS OF FACT**

1. The Applicant and Property owner, Leslie Plaskon, appeared and testified regarding the intended use of the backyard for family recreational purposes, including the installation of a proposed inground pool and upgraded, uncovered patio. The pool will also include a waterfall type of water feature.
2. The Applicant's professional engineer, Paul Gdanski, PE, appeared and offered testimony on behalf of the Applicant. He described the proposed layout, materials, drainage, and overall design of the project. The variances required and requested by the Applicant were discussed and confirmed on the record. As to preexisting nonconformities, that will not be exacerbated by the proposal, the Applicant is seeking variances for lot width, right side yard setback, combined side yard setback, and distance between accessory structures (namely, between the existing garage and existing shed). The Applicant also seeks variance relief for lot coverage. The complete list of variances is accurately captured in Section II herein, with same being confirmed on the record.
3. Mr. Gdanski testified that the only new nonconformity created by the proposal is that of lot coverage and testified that the increase to lot coverage is minimal (2.7%) and that appropriate stormwater management measures are being proposed to address any concerns related to runoff.
4. Mr. Gdanski testified that no "discounts" were provided when he calculated onsite impervious coverage, i.e. he did not reduce the coverage by any amount and accounted for 100% of the complete square footage of all impervious surfaces when rendering his calculations. This approach, the Board engineer acknowledged, provides a stricter calculation of impervious coverage than the Code calls for (where the Code does "discount" for certain types of coverage).
5. Mr. Gdanski testified that the drainage mitigation system will include a perimeter (aka "French") drain around the proposed patio that will direct the stormwater and water runoff into a new Cultec chamber-style system. Mr. Gdanski testified that there is no existing drainage system onsite.
6. Mr. Gdanski testified that the maximum height of the retaining walls proposed on the Property is 2 ft; the Applicant testified that the detail on the plans indicating otherwise will be revised to show that no retaining walls will exceed 3 ft in height, in accordance with Borough Code.

7. The Applicant testified that there is an existing fence around the Property, measuring 6 ft in height, with gates on either side of the Property, as required by Borough Code.
8. Mr. Gdanski testified that the lawful placement of the dwelling on the Lot with preexisting nonconformities, the exceptional narrowness of the Lot, and unusual shape of the Lot, make it impractical to comply with the zoning ordinances at issue. (N.J.S.A. 40:55D-70(c)(2), i.e. "hardship" justification for variance relief). The Applicant testified that no additional changes are proposed, and no further encroachments would result from the proposed construction.
9. The Applicant's professionals opined that statutory justification for the relief sought is further provided under N.J.S.A. 40:55D-70(c)(2), in that three purposes of the Municipal Land Use Law, as set forth in N.J.S.A. 40:55D-2, *et seq.*, are furthered by virtue of the proposal, namely:
  - a. To encourage municipal action to guide the appropriate use or development of all lands in this State, in a manner which will promote the public health, safety, morals, and general welfare;
  - e. To promote the establishment of appropriate population densities and concentrations that will contribute to the well-being of persons, neighborhoods, communities and regions and preservation of the environment; [and]
  - i. To promote a desirable visual environment through creative development techniques and good civic design and arrangement[.]
10. At the conclusion of the hearing, the Board voted to approve the application.

#### **IV. LEGAL DISCUSSION, CONCLUSIONS OF LAW**

11. The Board has considered the application with reference to the objectives set forth in the applicable Zoning Ordinances and New Jersey State Statutes. Specifically, N.J.S.A. 40:55D-70(c), under which the Applicant has applied, states that the Board shall have the power to:
  - (1) Where: (a) by reason of exceptional narrowness, shallowness or shape of a specific piece of Property, or (b) by reason of exceptional topographic conditions or physical features uniquely affecting a specific piece of Property, or (c) by reason of an extraordinary and exceptional situation uniquely affecting a specific piece of Property or the structures lawfully existing thereon, the strict application of any regulation pursuant to article 8 of this act [40:55D-62 *et seq.*] would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the developer of such Property, grant, upon an application or an

appeal relating to such Property, a variance from such strict application of such regulation so as to relieve such difficulties or hardship; (2) where in an application or appeal relating to a specific piece of Property the purposes of this act... would be advanced by a deviation from the zoning ordinance requirements and the benefits of the deviation would substantially outweigh any detriment, grant a variance to allow departure from regulations pursuant to article 8 of this act [40:55D-62 et seq.].]

12. In addition to the statutory requirements above, which are also known as the “positive criteria,” the Applicant must also satisfy the “negative criteria” to warrant a grant of the variance. Namely, the Applicant must show that the variance “can be granted without substantial detriment to the public good” and that it “will not substantially impair the intent and purpose of the zone plan and zoning ordinance.” (N.J.S.A. 40:55D-70).
13. The Board has considered the application and testimony and all related evidence presented, and after deliberation has found and determined that the Applicant has demonstrated and satisfied the positive and negative criteria required under statute; the Board has determined that the Applicant has presented adequate testimony and evidence to satisfy the statutory criteria for the grant of the variances requested.
14. The Board finds that strict application of the relevant ordinance(s) would result in peculiar and exceptional practical difficulties to, and/or exceptional and undue hardship upon the Applicant, due to the lawful placement of the dwelling on the Lot, the exceptional narrowness of the Lot, and unusual shape of the Lot. Therefore, the Board finds that a grant of variance(s) from such strict application of the relevant ordinance, so as to relieve such difficulties or hardship, is appropriate.
15. The Board finds and concludes that the purposes of the Municipal Land Use Law—specifically those set forth in N.J.S.A. 40:55D-2(a), (e), and (i)—will be advanced by granting the requested variance and that the benefits outweigh any detriment. The relief can be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the Borough’s zoning plan or ordinance.
16. The Board finds and determines that the proposed deviation is modest and well-justified by the site conditions and proposed improvements. The improvements will enhance the appearance and functionality of the Property without substantial impact on adjacent properties or the surrounding neighborhood.

17. The Board finds that the Applicant's proposal does not otherwise affect, encumber, or violate any other bulk requirement under the zoning ordinance. The Board finds that there is no detriment to any neighboring properties and/or the public good, and finds that all other bulk aspects of the Property and lot, among other facts noted, to also be compelling in reaching this conclusion.
18. The Board finds and concludes that the Applicant's proposal is not ambitious and/or out-of-character with the neighborhood and will not over-stress the Property and that the result will be in conformity with current community standards.
19. The Board further finds that the purposes of the Municipal Land Use Law would be advanced by a deviation from the ordinance requirements and the benefits of the deviation would substantially outweigh any detriment.
20. The Board further finds and concludes that the relief granted herein can be granted without causing substantial detriment to the public good and that such granting will not substantially impair the intent and the purpose of the zoning plan and/or of the municipal zoning ordinance.

**WHEREAS**, the Board of Adjustment of the Borough of Hawthorne has considered the application and plans submitted with reference to the objectives, requirements and restrictions set forth in the Zoning Ordinance of the Borough of Hawthorne and Land Use Statutes of the State of New Jersey.

**NOW THEREFORE, BE IT RESOLVED** that the Board of Adjustment of the Borough of Hawthorne, for good cause shown and by reason of the findings and conclusions as set forth herein and/or otherwise on the record at aforementioned public hearing(s), hereby **grants and approves** the Applicant's request variance relief, as delineated above, specifically:

- a. Chapter 540, Attachment 1: Lot Coverage. To allow a lot coverage of 27.7%, where the maximum permitted lot coverage in the R-A1 Zone is 25%.
- b. Chapter 540, Attachment 1: Front Yard Setback. To allow a front yard setback of 22.3 ft, where the minimum required front yard setback in the R-A1 Zone is 50 ft.
- c. Chapter 540, Attachment 1: Lot Width. To allow a lot width of 67 ft, where the minimum required lot width in the R-A1 Zone is 125 ft.
- d. Chapter 540, Attachment 1: Side Yard Setback. To allow a right side yard setback of 13.9 ft where the minimum required side yard setback in the R-A1 Zone is 15 ft.
- e. Chapter 540, Attachment 1: Combined Side Yard Setback. To allow a combined side yard setback of 34.7 ft, where the minimum required combined side yard setback in the R-A1 Zone 40 ft.

- f. Section 540-127(a)(2): Distance Between Accessory Structures. To allow a distance between the existing shed and the existing garage of 3 ft, where an accessory structure shall be otherwise located at least 6 ft from any other accessory structure.

Such relief is granted in accordance with the plans, exhibits, and reports submitted and above referenced, subject to the following **terms and conditions**:

- a. Drainage calculations and an onsite drainage mitigation system plan must be submitted to the Board engineer for his review and approval prior to the commencement of any construction.
- b. There will be no retaining walls onsite exceeding three (3) ft in height; the Applicant's plans will be revised to reflect same.
- c. There shall be a strict prohibition on onsite construction unless and until all appropriate permits are obtained by the Applicant.
- d. There shall be no adverse drainage directed to any neighboring properties during construction or upon completion of construction.
- e. The Property shall be kept in a clean and tidy condition during the course of construction.
- f. The Applicant shall comply with all self-imposed terms, conditions and limitations that are a part of the Applicant's application, including, but not limited to any modifications and/or supplements at public hearing.
- g. The Applicant shall comply with all applicable ordinances of the Borough of Hawthorne, and all applicable federal, state and county laws, rules, and requirements.
- h. This Resolution is specifically conditioned upon the Applicant paying all required application fees, escrow fees, Borough professional fees, and related fees required by this municipality and this Resolution of Approval.
- i. The Board and this Resolution incorporate by reference, as if recited verbatim, the content of the Board's transcript and minutes of the Applicant's Board hearing(s). Omission herein of any condition and/or stipulation which was otherwise stated on the record of hearing(s), does not constitute waiver and shall be fully enforceable.

PLASKSON: Block 287, Lot 20  
995 Lafayette Ave.

**BE IT FURTHER RESOLVED** that this approval shall not constitute a recommendation or approval of any application or variance not specifically delineated herein.

**BE IT FURTHER RESOLVED** that the Administrative Officer shall forward a copy of this Resolution to the Borough Engineer, Construction Official and the Applicant.

**MOTION** was made at hearing of **April 21, 2025** to request and authorize the Board's attorney, Sophy Sedarat, Esq., to draft an appropriate Resolution reflecting the Board's determination as aforesaid.

**ROLL CALL VOTE UPON MOTION**

Name	Motion	Second	Yes	No	Abstain	Absent
John F. Gallagher						X
David A. Schroter			X			
Victor Cuttitta, Jr.			X			
Jodi DeMarco			X			
Lyle Hatch			X			
Marco A. Totaro	X		X			
Eleanor Conley Wenzke						X
ALTERNATES	----	----	----	----	----	----
Brian J. Lind		X	X			
Danilo Ramirez						X
<b>TOTAL</b>	----	----			----	----

**MOTION** was made at the Board's public hearing on **May 19, 2025** to approve and adopt the foregoing Resolution as drafted by Sophy Sedarat, Esq.

**ROLL CALL VOTE UPON FORM OF RESOLUTION**

Name	Motion	Second	Yes	No	Abstain	Absent
John F. Gallagher					X	
David A. Schroter			X			
Victor Cuttitta, Jr.			X			
Jodi DeMarco	X		X			
Lyle Hatch		X	X			
Marco A. Totaro			X			
Eleanor Conley Wenzke					X	
ALTERNATES	----	----	----	----	----	----
Brian J. Lind			X			
Danilo Ramirez						
<b>TOTAL</b>	----	----			----	----

  
 DAVID A. SCHROTER, ACTING CHAIRMAN

  
 JOAN HERVE, BOARD SECRETARY