

RESOLUTION

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

— — — — —
ANTHONY DiLUCCIA

**Variances for Front Yard Setbacks (Dwelling and Garage),
Accessory Structure in a Front Yard,
Lot Coverage, & Garage Coverage**

WHEREAS, ANTHONY DILUCCIA ("Applicant"), having an address of 27 Frederick 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 27 Frederick Avenue, Hawthorne, New Jersey 07506 ("Property"), also known as Block 176, Lot 27 on the Tax Assessment Map of the Borough of Hawthorne; and

WHEREAS, public hearing(s) were held upon the application on August 18, 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 Applicant was self-represented in this matter, with testimony provided by Albert F. Zaccone, FAIA, PP, CID, licensed architect and professional planner.
2. The subject Property is located in the R-2 Residential Zone of the Borough of Hawthorne. The lot is situated at the corner of Frederick Avenue and Minerva Avenue and is presently improved with a 1 ½ -story dwelling, a detached garage in dilapidated condition, and associated site improvements. The use is conforming in the R-2 Zone, which permits single-family and two-family residential dwellings.

3. The Applicant proposes to renovate and enlarge the existing dwelling, add a second floor, remove the existing detached one-bay garage, construct a detached two-bay garage, and construct a new covered front porch.
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 Application, dated June 26, 2025.
 - b. Property Survey, prepared by Butler Surveying & Mapping Inc., dated February 26, 2025.
 - c. Architectural Plans (2 sheets), prepared by Albert F. Zaccone, FAIA, PP, CID, dated May 30, 2025.
 - d. Zoning Permit Denial, issued by Glen Turi, Borough Zoning Official, dated June 4, 2025.

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. Front Yard Setback – Frederick Avenue (Dwelling): Minimum Required: 20 ft; Existing/Proposed: 5.1 ft.
 - b. Front Yard Setback – Minerva Avenue (Garage): Minimum Required: 20 ft; Proposed: 8.10 ft.
 - c. Accessory Structure in Front Yard: To allow a garage to be located in the Minerva Avenue front yard of this corner lot, where accessory structures are not permitted in a front yard.
 - d. Lot Coverage: Maximum Permitted: 35%; Existing: 45.78%; Proposed: 55.1%.
 - e. Garage Coverage: Maximum Permitted: 25%; Proposed: 26.6%.

III. FINDINGS OF FACT

6. Anthony DiLuccia, the property owner and Applicant, appeared, and also offered the testimony of Albert F. Zaccone, FAIA, PP, CID, licensed architect and professional planner; summarized as follows:
 - a. The subject Property is a corner lot located at the intersection of Frederick Avenue and Minerva Avenue, improved with a 1 ½ -story dwelling, a detached garage in dilapidated condition, and associated improvements. The lot is situated in the R-2 Residential Zone.
 - b. The Applicant proposes to enlarge the dwelling by squaring off the rear portion of the first floor to create a more functional layout. The addition will also provide a new bedroom at the first-floor level and an office and additional bedroom at the second-floor level.

- c. The existing front porch is in disrepair and will be reconstructed with a roof covering. The porch will continue to observe the existing non-conforming front yard setback of 5.1 feet along Frederick Avenue and will not further encroach upon the required setback.
- d. The irregular shape of the lot, which is slightly wider in the front than at the rear, contributes to the need for variance relief. The shape of the parcel results in reduced setbacks at the narrower portion of the lot once the dwelling is squared off.
- e. The existing detached garage, oriented toward Minerva Avenue, is proposed to be removed and reconstructed as a 25-foot by 25-foot two-bay structure. The garage will be accessed from Frederick Avenue, as Minerva Avenue does not allow sufficient back-up space for vehicles. The driveway along Frederick Avenue will be widened to accommodate two cars and provide safe access.
- f. The location of the garage along Minerva Avenue places it within a front yard by virtue of the corner lot configuration, thereby requiring a variance to permit an accessory structure in a front yard.
- g. The reconstructed garage will occupy 26.6% of the rear yard area, slightly exceeding the permitted 25% maximum coverage. Mr. Zaccone testified that this excess is modest and not visually or functionally detrimental.
- h. The total lot coverage will increase to 55.1%, where 35% is permitted. The increase results from the dwelling addition, porch reconstruction, and new garage footprint, and requires a variance for lot coverage.
- i. Mr. Zaccone testified that the improvements will modernize the dwelling, remove a blighted accessory structure, and provide adequate vehicular accommodations. The architectural style and massing will remain consistent with neighboring homes, and the garage height will not exceed 15 feet, consistent with the Applicant's commitment.
- j. The Applicant further testified that stormwater management measures will be implemented, and a plan will be submitted to the Board Engineer for review and approval. These measures are intended to offset the increased impervious coverage and prevent adverse drainage impacts to neighboring properties.

7. At the conclusion of the hearing, the Board voted to approve the application.

IV. LEGAL DISCUSSION, CONCLUSIONS OF LAW

8. 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.].]

9. 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).
10. 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.
11. The Board finds that the Applicant has demonstrated sufficient grounds to support the requested bulk variances. The Board finds that the proposed improvements are functional, aesthetically compatible with the neighborhood, and will result in the removal of a deteriorated garage structure. The proposal does not increase the existing non-conformity of the porch setback and addresses safety concerns related to garage access and driveway maneuverability.
12. Positive Criteria: The Board finds that the unique conditions of this corner lot, including its shape and location along two streets, create hardship in meeting strict ordinance standards. The proposed dwelling addition, porch reconstruction, and garage replacement are reasonable improvements that enhance functionality and

safety. Removal of the dilapidated garage and replacement with a code-compliant structure promotes the general welfare.

13. Negative Criteria: The Board finds that granting relief will not cause substantial detriment to the public good. The setbacks, although non-conforming, are consistent with the established neighborhood character. The lot coverage increase, while significant, is mitigated by the Applicant's commitment to stormwater management. The garage's scale is proportionate and capped at 15 feet in height, minimizing visual impacts.
14. Accordingly, the Board concludes that the requested variances satisfy the statutory criteria, that the benefits of the proposal substantially outweigh any detriment, and that the relief can be granted without substantial impairment of the intent and purpose of the Borough's zone plan and zoning ordinance.
15. 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.
16. 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.
17. 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.
18. 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.

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 to allow:

1. Front Yard Setback (Frederick Avenue – Dwelling): 5.1 ft where 20 ft is required.
2. Front Yard Setback (Minerva Avenue – Garage): 8.10 ft where 20 ft is required.
3. Accessory Structure in a Front Yard: To allow a garage in the Minerva Avenue front yard.
4. Lot Coverage: 55.1% where 35% maximum is permitted.
5. Garage Coverage: 26.6% where 25% maximum is permitted.

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

- a. The garage height shall not exceed 15 feet.
- b. A drainage mitigation/stormwater management plan shall be submitted to the Board Engineer for review and approval.
- c. There shall be a strict prohibition on onsite construction unless and until all appropriate permits are obtained.
- 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 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.

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 **August 18, 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

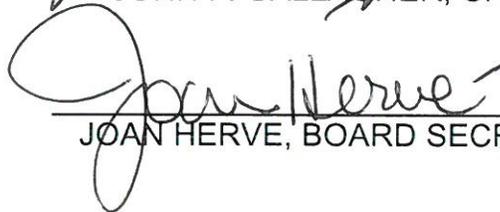
Name	Motion	Second	Yes	No	Abstain	Absent
John F. Gallagher			X			
David A. Schroter						X
Victor Cuttitta, Jr.			X			
Jodi DeMarco		X	X			
Lyle Hatch			X			
Marco A. Totaro	X		X			
Eleanor Conley Wenzke			X			
ALTERNATES	----	----	----	----	----	----
Brian J. Lind			X			
Danilo Ramirez						
TOTAL	----	----	7		----	----

MOTION was made at the Board's public hearing on **September 15, 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		X			
Jodi DeMarco		X	X			
Lyle Hatch						X
Marco A. Totaro						X
Eleanor Conley Wenzke			X			
ALTERNATES	----	----	----	----	----	----
Brian J. Lind			X			
Danilo Ramirez			X			
TOTAL	----	----	6		----	----


JOHN F. GALLAGHER, CHAIRMAN


JOAN HERVE, BOARD SECRETARY