

## RESOLUTION

PLANNING BOARD  
BOROUGH OF HAWTHORNE  
COUNTY OF PASSAIC, STATE OF NEW JERSEY

ALL BROTHERS REALTY CORPORATION

**Site Plan Approval and Variances for Front Yard Setback, Rear Yard Setback,  
Building Coverage, Impervious Coverage, & Residential Parking Spaces**

**WHEREAS**, All Brothers Realty Corporation (“Applicant”), having an address at 203 Diamond Bridge Avenue, Hawthorne, New Jersey, applied to the Planning Board of the Borough of Hawthorne (“Board”) seeking site plan approval and variance relief from certain provisions of the Borough Zoning Ordinance for property designated as Block 106, Lot 9 (“Property”) on the Tax Map of the Borough of Hawthorne; and

**WHEREAS**, a public hearing was held upon the application on August 5, 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 the opportunity to receive testimony from and question the Applicant and professionals presented, 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 represented in this matter by Bruce Rosenberg, Esq., and presented the testimony of:
  - a. Edward Easse, AIA, PP, architect and professional planner;
  - b. Calisto Bertin, PE, professional engineer.
2. The Property is located within the Borough’s B-2 Business Zone and is currently developed with a liquor store and bar.
3. The Applicant proposes to construct two (2) residential apartments on the second floor of the existing building. The Applicant also initially proposed to construct a canopy structure at the rear of the building for use as a smoking area; at hearing, however, the Applicant withdrew the canopy proposal in its entirety, eliminating two of the seven originally requested variances.

4. In support of the within application, the Applicant has submitted the following items, each of which is expressly made a part of this application and is the basis of any Board decision unless otherwise specifically excepted herein:
  - a. Borough of Hawthorne Planning Board Application, dated July 14, 2025;
  - b. Letter of Denial issued to the Applicant by the Borough of Hawthorne Zoning Official, Glen Turi, dated July 2, 2025;
  - c. Architectural Plans, Five (5) Sheets, titled "Proposed Addition For: Diamond Wine & Liquors [...]", dated February 5, 2025, prepared by Edward Easse, AIA, PP;
  - d. Site Plan, One (1) Sheet, titled "Diamond Liquors Expansion [...]", dated March 26, 2025, revised through April 30, 2025, prepared by Calisto Bertin, PE.

## **II. VARIANCES**

5. As amended at hearing, the Applicant's proposal requires relief from the Borough Zoning Code by way of the following variances<sup>1</sup>:
  - a. Front Yard Setback: Minimum 10 ft. required; 2.4 ft. existing/proposed;
  - b. Rear Yard Setback: Minimum 25 ft. required; 12.5 ft. existing/proposed;
  - c. Building Coverage: Maximum 50% permitted; 83% existing/proposed;
  - d. Impervious Coverage: Maximum 75% permitted; 100% existing/proposed;
  - e. Residential Parking Spaces: Four (4) spaces required per RSIS; none proposed on site.<sup>2</sup>

## **III. FINDINGS OF FACT**

6. Edward Easse, AIA, PP appeared and offered testimony on behalf of the Applicant, summarized as follows:
  - a. Mr. Easse testified that the proposal is consistent with the Borough's redevelopment efforts along Diamond Bridge Avenue and will repurpose existing underutilized building space into residential units, a use permitted in the B-2 Zone when located above commercial uses.
  - b. The building footprint will remain unchanged and the design will take approximately 75% of the footprint to construct two (2) two-bedroom apartments on the second floor.
  - c. The apartments will be served by a new, fully fire-rated enclosed corridor and stairway, accessed directly from Diamond Bridge Avenue, carved out of a portion of the existing retail liquor store space.

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<sup>1</sup> Originally proposed variances for canopy setback under §540-127(B)(2) and §540-127(B)(3) were withdrawn when the canopy was removed from the proposal at hearing.

<sup>2</sup> Pursuant to §540-162E(5) of the Borough Code, as to residential units above commercial units: "Parking consistent with RSIS requirements consistent with N.J.A.C. 5:21-4.14, Table 4.4, shall be required except alternative parking standards to those shown in Table 4.4 shall be accepted if the applicant demonstrates these standards better reflect local conditions. Factors affecting minimum number of parking spaces include household characteristics, availability of mass transit, urban versus suburban location, and available off-site parking resources."

- d. There will be no shared internal circulation between the apartments and any commercial areas; each unit will have independent access.
  - e. The site is unique in that, to the right (east) side, there are two existing residential apartments in the neighboring building that face the subject building's side wall. To buffer this relationship, the proposal incorporates an alleyway and railings between the buildings.
  - f. Mr. Easse confirmed that the project meets all applicable height requirements and that all variances requested except for parking are due to pre-existing nonconformities which will not be exacerbated by virtue of the proposal. Mr. Easse emphasized that the nonconforming building and impervious coverage percentages are pre-existing and will not increase.
  - g. The originally proposed canopy structure at the rear — consisting of a metal roof and three decorative columns — was intended as a designated smoking area for bar patrons, with refuse containers to maintain cleanliness. The canopy would have been attached to the principal building, and thus not considered an accessory structure under the ordinance. However, the Applicant withdrew this element entirely during the hearing, eliminating related variances and conditions.
  - h. Mr. Easse described the project's aesthetic upgrades, including a completely new façade to enhance the building's visual appeal and improve the streetscape.
  - i. Mr. Easse testified that introducing residential use above retail will increase pedestrian activity and foot traffic in an area with numerous retail shops, creating a more vibrant downtown environment.
  - j. From a planning perspective, the improvements are expected to act as a catalyst for other nearby property owners to upgrade their buildings.
  - k. Mr. Easse opined that there will be no negative impacts from the variances requested, as the proposal contains all activity on the subject property, eliminates a current eyesore, and represents good civic design.
7. Next, the owner of the Applicant-corporation and subject Property, Manuel Antigua, appeared and offered testimony, summarized as follows:
- a. Mr. Antigua testified that the existing liquor store currently operates until 10:00 p.m., while the existing bar operates until 11:00 p.m. on weekdays and until 1:00 a.m. on weekends. There is presently an interior door between the liquor store and bar.
  - b. A new fire-rated corridor and door will provide additional egress from the retail area.
  - c. Mr. Antigua confirmed that the residential apartments will be fully ADA adaptable. The alleyway between the subject property and the building to the east will remain as a buffer.
8. Finally, Calisto Bertin, PE, appeared and offered testimony on behalf of the Applicant, summarized as follows:

- a. Mr. Bertin testified regarding drainage and parking. The new roof system for the second floor will be pitched to direct stormwater into an internal drainage system, with downspouts carrying the water to existing discharge locations.
  - b. Mr. Bertin testified that the building currently occupies approximately 80% of the lot, leaving no available area for onsite parking. Four (4) spaces are required by RSIS for the proposed two apartments, but none can be provided onsite. Instead, residents will be able to obtain municipal parking permits for spaces along Grand Avenue, which he described as the favorable and realistic alternative given the site's constraints.
9. Members of the public were given an opportunity to be heard and presented commentary, summarized as follows:
- a. Robert Lozito: Owner of 207 Diamond Bridge Avenue (Melcon's Pharmacy) - Mr. Lozito expressed concerns about drainage and water runoff between his building and the subject property, noting past incidents of indoor flooding. He also raised longstanding parking conflicts, stating that patrons of the bar have parked in the pharmacy's private lot for years without permission. He objected to the proposed smoking area at the rear, citing its proximity to his building, past problems with cigarette waste, bottles, and loitering, and the negative impact on his property.
  - b. Agnes Talde and Dale Talde: 193–201 Diamond Bridge Avenue (Representing properties housing Sparkle 2 Cleaners, King Wok, Gallo Chicken, Pappy's Juice Bar, and Crystal Nail Salon) - The Taldes expressed concerns about the proposed smoking area's proximity to their properties, citing smoke and fire hazards, and the potential for smoke odors to permeate neighboring businesses. They also stressed the need for safe pedestrian access during construction to ensure uninterrupted operation of neighboring businesses. They raised additional parking concerns regarding increased residential demand.
10. In response to the commentary provided by the public, the Applicant, as previously mentioned herein, withdrew the smoking area canopy from the proposal. The Applicant's professionals also reiterated that the permitted parking which will be provided on Grand Avenue is adequate to address any envisioned parking concerns. The Applicant also stipulated that patrons and residents of the Property will not be permitted to park on any neighboring private property.
11. At the conclusion of the hearing, the Board voted to approve the application.

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

12. 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.].]

13. 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).

14. 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.

15. 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; 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.

16. The Board finds that:

- a. The Property is fully developed in a manner consistent with its B-2 zoning and cannot provide onsite parking due to its pre-existing coverage.
- b. The proposed apartments make productive use of existing building volume without increasing bulk nonconformities.

- c. The exterior façade and interior circulation improvements provide visual, safety, and functional benefits.
  - d. The variances requested are the minimum necessary to permit reasonable use of the Property given its unique conditions and permissible use in the Zone.
  - e. With the exception of the parking space variance, all requested variances are pre-existing nonconformities which will not be exacerbated by virtue of the proposal.
  - f. The application satisfies the “positive criteria” by promoting redevelopment, improving aesthetics, and providing appropriate residential opportunities.
  - g. The “negative criteria” are satisfied in that the relief can be granted without substantial detriment to the public good and without substantially impairing the zone plan or zoning ordinance.
  - h. The conditions imposed upon the Applicant are necessary and integral to the herein approval.
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.
19. 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 Planning Board 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 Planning Board 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 for site plan approval and variance relief, as delineated above, specifically for:

- a. Front Yard Setback of 2.4 ft., where a minimum of 10 ft. is required;
- b. Rear Yard Setback of 12.5 ft., where a minimum of 25 ft. is required;
- c. Building Coverage of 83%, where a maximum of 50% is permitted;
- d. Impervious Coverage of 100%, where a maximum of 75% is permitted;
- e. Residential Parking Spaces – none proposed onsite, where four (4) spaces minimum required per RSIS.

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

- a. There shall be a strict prohibition on smoking and/or loitering at the front of the Property; smoking shall be confined to the rear, as far away from neighboring properties as possible.
- b. There shall be a strict prohibition on any of the Property's patrons and/or residents from parking on neighboring private properties.
- c. A drainage mitigation system proposal shall be submitted to the Board Engineer for his review and approval.
- d. Prior to adoption of this Resolution, the Applicant shall submit revised plans to the Board and its professionals reflecting the elimination of the canopy and any other changes stated on the record.
- e. The Applicant shall ensure all neighboring properties enjoy clear and safe access to their businesses during construction of the proposal and there shall be no obstruction of the sidewalk during same.
- f. In the event the Applicant violates any conditions of approval herein, the Borough shall have the right to full remedies under the law, including, but not limited to: revocation of certificate of compliance/occupancy and/or zoning permit, requirement to halt business operations pending remediation, and/or daily fines.
- g. The Board retains jurisdiction to recall the Applicant for a period not to exceed one (1) year after adoption of this Resolution.
- h. Pursuant to Borough Code Section 540-34B, the Construction Code Officer, Zoning Officer, Borough Engineer, or other Borough employees authorized by the Borough shall have the right to inspect the Property at reasonable times for the purpose of investigating possible violations of this approval and/or the Borough Code.
- i. Pursuant to Borough Code Section 540-36B(1), in the event of Applicant's failure to comply with any provisions or requirements of the Borough Code, the Borough Construction Official or their designee may revoke any building or construction permit for the Property. The Borough may also seek to enjoin the violation, or take such other steps as permitted by law.
- j. Pursuant to Borough Code Section 540-36B(2), in the event Applicant's failure to comply with any condition of this approval, the Construction Code Official, on his/her initiative, may revoke the building permit, construction permit or certificate of occupancy, as the case may be, and seek to enjoin the violation, or take such other steps as permitted by law. In addition, the Borough Zoning Officer or Borough Engineer may also, on his/her initiative, seek to enjoin the violation, or take other such steps as permitted by law to enforce requirements of the Borough Code and/or condition(s) of approval herein.
- k. 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.

- l. The Applicant shall comply with all applicable ordinances of the Borough of Hawthorne, and all applicable federal, state and county laws, rules, and requirements.
- m. 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.
- n. 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 5, 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	Ineligible
Robert Lucibello			✓				
Tiffany Della Groce			✓				
Christopher J. DiBella		✓					
MaryLou DiMattia				✓			
John V. Lane	✓						
Frank E. Matthews							
Robert Meier			✓				
ALTERNATES	----	----	----	----	----	----	----
Robert Verrengia (1)							
Brian Lane (2)			✓				
<b>TOTAL</b>	----	----			----	----	----

**MOTION** was made at the Board's public hearing on **August 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	Ineligible
Robert Lucibello							
Tiffany Della Groce			✓				
Christopher J. DiBella	✓						
MaryLou DiMattia							
John V. Lane							
Frank E. Matthews			✓				
Robert Meier		✓					
ALTERNATES	----	----	----	----	----	----	----
Robert Verrengia (1)							
Brian Lane (2)			✓				
<b>TOTAL</b>	----	----			----	----	----



ROBERT LUCIBELLO, Chairman

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