

February 27th , 2023
Hawthorne, NJ

The regular Meeting of the Zoning Board of Adjustment of the Borough of Hawthorne was held on the above date at 6:57 p.m. in the Council Meeting Room of the Municipal Building, 445 Lafayette Avenue, Hawthorne, New Jersey, with the following present:

FLAG SALUTE

Chairman Gallagher invited all present to join him in the Pledge of Allegiance.

“Adequate Notice of this meeting has been posted on the Municipal Bulletin Board, published in the legal newspaper of the Borough and a schedule, including date and time, provided to all persons entitled by law to same. “

ROLL CALL

Board Member.....	John F. Gallagher
Board Member.....	David A. Schroter
Board Member.....	Victor Cuttitta, Jr.
Board Member.....	Eleanor C. Wenzke
Board Member	Lyle Hatch
Board Member.....	Jodi DeMarco
Board Member.....	Marco Totaro
Board Member (Alternate #1)	Brian J. Lind
Board Member (Alternate #2)	Danilo Ramirez - absent

Also present was Board Attorney, James Delia, Board Engineer Pete TenKate, Board Planner, Dave Novack, Zoning Officer Gene DeAugustines and Board Secretary Joan Herve.

APPROVAL OF MINUTES

Chairman Gallagher entertained a motion to approve the minutes of the Reorganization Meeting of January 23, 2023 moved by Schroter, seconded by Totaro. On a roll call vote, all present voted yes (Cuttitta, DeMarco, Lind, Totaro, Wenzke, Schroter, Gallagher). Motion Carried.

MEMORIALIZED RESOLUTION

RESOLUTION #2023-003

Carol Pitaccio (the “Applicant”)
50 Sixth Avenue (the “Property”)Lot 16, Block 198
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 obtain approval for minimum side yard variance (single) and minimum side yard variance (both) for an existing deck installed by Applicant’s predecessor in title;

WHEREAS, Applicant seeks the following specific relief:

- a) Minimum Side Yard (One): Article 540 Attachment 1 Borough of Hawthorne Schedule of Bulk and Coverage Controls requires a minimum side yard of 10 feet.
A side yard of 5.06 feet is existing. The minimum side yard setback to the deck *has been verified to be* 5.12 feet.
- b) Minimum Side Yard (Both): Article 50 Attachment 1 Borough of Hawthorne Schedule of Bulk and Coverage Controls requires a combined side yard of 20 feet (one-family) and 25 feet (two-family).
A combined side yard of 18.70 feet is existing. A variance is required.

WHEREAS, the Board reviewed this matter at its public hearing on January 23, 2023; 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 April 6, 2022, along with the following:
 - A. Map entitled, "Property in the Borough of Hawthorne, Passaic County, New Jersey, Location Survey of dwelling on property known as Lot 16 in Block 198 on the Current Tax Assessment Map of the Borough of Hawthorne, County of Passaic, State of New Jersey, prepared by Koestner Associates, signed but not sealed, dated December 15, 2021 and revised December 8, 2022, and;
 - B. Eleven (11) photographs of a deck within the rear yard of the premises.
 - C. Borough of Hawthorne Zoning Board of Adjustment Application for Variance, dated April 6, 2022.
 - D. Borough of Hawthorne, Checklist for Required Submissions to the Planning Board or the Zoning Board of Adjustment, dated April 6, 2022.
 - E. As-Built Deck Plan, undated and no Title Block.
 - F. As-Built Survey, prepared by Steven L. Koestner, P.E., P.L.S., dated December 15, 2021
 4. Applicant purchased the Property in 2021 with the deck in place. During the acquisition process, it was determined no prior municipal approval was granted for its installation. Therefore, Applicant was required to make the within application. Sean Hamlin, the prior owner, testified that the deck was built by his contractor approximately 20 years ago. He was incorrectly informed by his contractor that all necessary permits were obtained.
 5. Relief exists pursuant to N.J.S.A. 40:55D-70(c)(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.
 6. In this instance, the Applicant has demonstrated that due to the existing location of the home, the location of the deck is the most feasible. It is also noted that the deck does not encroach any further than the existing side yard setbacks of the house. Therefore, the strict application of the particular regulations of the Borough of Hawthorne Zoning Ordinance would be an undue hardship upon the Applicant. The Board further finds that 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.
 7. 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 Carol Pitaccio 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.
- 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 February 27, 2023.

Chairman Gallagher entertained a motion to Memorialize Resolution #2023-003, moved by DeMarco, seconded by Cuttitta. On a roll call vote.

Ayes: Cuttitta, DeMarco, Lind, Totaro, Wenzke, Schroter, Gallagher

Abstain: Hatch

Nays: None

Motion carried

OLD BUSINESS

Diamond Brook Hollow Condominium Association, 45 Royal Avenue (block 29, Lot 10)

Applicant's Attorney Daniel Steinhagen stated they were prepared to proceed tonight, however prior to the meeting they had a chance to speak to the Fire Chief and Fire Official about their review letters and they indicated they are willing to come out to the site to take a closer look at the situation to determine what size deck they would consider, if any. If not, they will probably not proceed with this application. Therefore, they are requesting to table this hearing until the April 17, 2023.

Chairman Gallagher entertained a motion to table the above application to the April 17, 2023 meeting, moved by Totaro, seconded by Wenzke. on a roll call vote, all voted yes, Ayes: Cuttitta, DeMarco, Hatch, Lind, Totaro, Wenzke, Gallagher, with the exception of Schroter who abstained. Motion carried

It should be noted Board Member Schroter was not present during the first hearing. Alt 1, Brian Lind sat in for the first hearing.

NEW BUSINESS

Mr. & Mrs. B. Lind, 46 Kingston Avenue (block 111, lot 3)

Located in a R2 Zone.

Applicant's Architect/Planner Ed Easse gave a brief overview of the application. The applicant proposes to remove a portion of the existing second floor to a one family dwelling and construct a two-story rear yard addition of 270 square feet in area (11'0" x 24'-5") per floor (total living area addition for both floors 540 square feet) to the structure. The proposed addition will align on one side of the existing dwelling and will also add a one story wooden deck. Additional work to include removal of an existing pool and removal of an existing concrete patio/walkway.

Chairman Gallagher opened up the meeting to the public asking if anyone had any questions for this witness.

Margaret Best, 42 Kingston Avenue

Resident stated she lives in the house to the left of this applicant and she has some concerns regarding water runoff and she asked if drainage was built into this addition. Mr. Easse stated yes, they have built in two liters that will be underground they will serve has a catch basin.

Chairman Gallagher entertained a motion to approve the above application, moved by Wenzke, seconded by Totaro. on a roll call vote, all voted yes, Ayes: Cuttitta, DeMarco, Hatch, Totaro, Wenzke, Schroter, Gallagher
Motion carried

Mr. & Mrs. Ryan, 185 Bamford Avenue (block 142, lot 8)

Located in a R1 Zone.

Applicant's Architect/Planner Ed Easse gave a brief overview of the application. Applicant proposes to construct (2) rear yard (one story) additions (5'x10' or 50 square feet 11'x16' or 176 square feet for a total building addition area of 226 square feet). Work will include removing an existing shed structure & removal of existing paver blocks. A new deck 8'x10' will be constructed in the rear of the dwelling. The lot coverage on-site will be reduced by 53 square feet and will reduce the impervious area from 3,676 square feet after all construction is done.

Chairman Gallagher opened up the meeting to the public asking if anyone had any questions for this witness. Seeing none, closed the public portion.

Chairman Gallagher entertained a motion to approve the above application, moved by Schroter, seconded by Cuttitta. on a roll call vote, all voted yes, Ayes: Cuttitta, DeMarco, Hatch, Totaro, Wenzke, Schroter, Gallagher Motion carried

J.V.C. Land, LLC, 1060 Goffle Road (block 281.03, lot 36)

(Site is located in the Retail/Commercial (B-3)Zone and is bordered to the north, east and west by the B-3Zone, and to the south by the Retail/Commercial (B-3A) Zone.)

Applicant is seeking Preliminary and Final Site Plan/Use Variance approval to permit the sale of pre-owned vehicles. Section 540-111.2.A(2) allows the sale of pre-owned motor vehicles only in conjunction with the sale of new cars. In addition, Applicant seeks approval to use the property designated as Block 2811.03, Lot 38 to park motor vehicles on an ancillary basis. And all other approvals, waivers or variances as may be determined to be required by the Board, or its experts during their review of the Application or during the course of the hearing. Applicant's Attorney Mitch Abrahams, Esq. gave a brief overview, his client Catherine Holtham is currently a lessee of the property, they have a purchase option. The game plan is to purchase the property & to do a wholesale redevelopment. In the meantime, we are looking to sell pre-owned cars only at this site. As per the borough ordinance this which requires a use variance. After being sworn int Ms. Holtham testified she is the principal owner and be the one responsible for running the operation and se has been in this business her entire life. When they take over the site there will be approximately 5/10 employees at any given time. As of right now there will be approximately 35 cars stored on the property. All vehicles will be washed & refurbished off site at her other dealerships. Hours of operation would be from 9 -7 pm six days a week, closed on Sundays. Front parking would be to display cars, back of parking spaces would be for employees. Customer parking would be off to the side of building for better access to the door. No flags or banners will be used. They are not looking to a typical used car lot in, there site would a new version of preowned vehicles.

Witness – Bruce Riggs, Applicant's Engineer testified he did the site plans for this application, and stated they are taking a building the was pre-approved by the Planning Board (Nissan Dealership) and using that for a used car dealership.

Witness – Ed Easse Applicant's Architect/Planner testified his company built that building (Nissan Dealership) which was previously a restaurant and gave a brief overview how he came up with the design of the building which stands there today.

Chairman Gallagher opened up the meeting to the public asking if anyone had any questions for these witnesses. Seeing none, closed the public portion.

Chairman Gallagher entertained a motion to approve the above application, moved by DeMarco, seconded by Hatch. on a roll call vote, all voted yes, Ayes: Cuttitta, DeMarco, Lind, Totaro, Wenzke, Schroter, Gallagher Motion carried

ADJOURNMENT

At 7:49p.m. Chairman Gallagher entertained a motion to adjourn the regular meeting, moved by Totaro, seconded by Cuttitta. All in favor, "Aye".

THE NEXT REGULAR MEETING OF THE ZONING BOARD OF ADJUSTMENT WILL BE ON

~MONDAY, MARCH 27th, 2023 ~

THE WORK SESSION WILL BEGIN AT 6:45P.M. WITH THE REGULAR MEETING IMMEDIATELY FOLLOWING

Respectfully Submitted,

Joan Herve, Secretary