

RESOLUTION #2016-002

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

In the matter of:

**James Conte
179 Arlington Avenue
Lot 12, Block 137
Hawthorne, New Jersey 07506**

WHEREAS, James Conte (“Applicant”) made application to the Borough of Hawthorne Board of Adjustment for bulk variance approval in connection with the premises known as Lot 12, Block 137, commonly referred to as 179 Arlington Avenue, New Jersey (the “Property”), located in the R-1-Single Family Residential Zone; and

WHEREAS, as a result of the Application, Applicant seeks the following variances:

(i) Side Yard Setback (one side yard). Required side yard setback is 15 feet. Applicant proposes a side yard setback of 4 feet 9 inches along the northerly side.

(ii) Side Yard Setback (Aggregate). Required aggregate side yard setback is 40 feet. Applicant proposes an aggregate side yard setback of 21 feet.

WHEREAS, the Board reviewed this matter at its public hearing on December 21, 2015; 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-1 Single Family Residential District which is designed for single family residential use.

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 November 13, 2015, along with a plan prepared by Patrick A. LaCorte, dated September 23, 2015 (last revised October 19, 2016), consisting of one (1) sheet modified to indicate a proposed one story addition.

4. Applicant proposes a modest 18 foot by 11 foot 11 inch addition. The addition will be placed towards the right rear of the house and keeping in line with the existing setbacks.

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 location of the existing structure, the strict application of the particular regulations of the Borough of Hawthorne Zoning Ordinance would be an undue hardship upon the Applicant. The Board finds that any perceived negative impact created by the front setback variance is de minimus. The Board further finds that such setback variance does not pose a substantial detriment to the public good and does 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 side yard setback variances requested by the Applicant can be granted in this instance. The

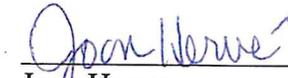
Applicant has demonstrated that the proposed structure will be consistent with the existing character of the neighborhood and will promote the purposes of zoning set forth at N.J.S.A. 40:55D-2. The Board in this instance finds that the benefits to be derived from the granting of the variances requested 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 James Conte with respect to the Property, requesting variance relief as set forth above, be and is APPROVED for the requested side yard setback variances enumerated above, 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.

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 January 25, 2016.


John Gallagher, Acting Chairman


Joan Herve

OFFERED BY: Schroter
SECONDED BY: DeRitter
VOTE: Ayes: 4
Nays: 0
Abstains - 2