

RESOLUTION #2022-001

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

In the matter of:

**Kristal A. McDowell (the “Applicant”)
34 Brookside Avenue
Block 91, Lot 18
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 premises known as Block 91, Lot 18, commonly referred to as 34 Brookside Avenue (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) The request is for approval to allow the construction of a detached garage with a two-foot side yard and two-foot rear yard setback, where four-foot setbacks are required; and

WHEREAS, the Board reviewed this matter at its public hearings on December 20, 2021; 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 August 4, 2021, along with a survey prepared by John P. Miceli, P.L.S., dated July 2, 2021, and architectural plans prepared by Allende Matos, R.A., dated June 3, 2020.

4. The Applicant proposes to construct a two-car garage in the general vicinity of a prior garage which was destroyed by a fallen tree. The prior garage was bigger, closer to the side yard property line and encroached over the rear property line. The proposed garage is located at the rear of the property, at the end of a shared driveway. The neighboring property's garage is located in the same general location (close to its side yard and rear yard). Applicant demonstrated that there is no better location for the garage due to the existing features of the Property. Thus, a hardship exists.

5. The Board determines that this proposal poses no substantial detriment to the neighboring properties and does not substantially deviate from the zone code.

6. Relief exists pursuant to N.J.S.A. 40:55D-70(c)(1) which requires that the Applicant, in order to demonstrate hardship, may 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.

NOW, THEREFORE, BE IT RESOLVED by the Board of Adjustment of the Borough of Hawthorne that the Application of Kristal A. McDowell with respect to the Property, requesting variance relief as set forth above, be and is APPROVED for the requested two-foot side yard and two-foot rear yard setback variances enumerated above, subject to the terms and conditions hereinafter set forth:

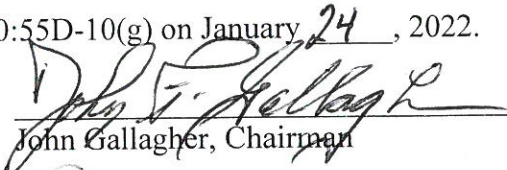
1. The foregoing findings of fact and conclusions of law are incorporated herein as if set forth at length.

2. The Applicant shall obtain approval from all other governmental agencies having jurisdiction over the subject Application and development, if any.

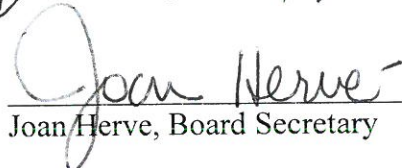
3. The Applicant shall pay all fees due and owing to the Borough of Hawthorne, including the posting of any application fees, review fees, inspection fees and/or escrow fees which may be due, prior to the issuance of any building permits.

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 24, 2022.



John Gallagher, Chairman



Joan Herve, Board Secretary

OFFERED BY: Wenzke
SECONDED BY: Cuttitta
VOTE: Ayes: 5 - Cuttitta, Gallagher, Hatch, Schroter, Wenzke
Nays: 0