

**RESOLUTION #2017-006**

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

**In the matter of:**

**Dina and Paul Murphy (“Applicant”)  
70 Van Winkle Avenue  
Lot 8, Block 262  
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 Lot 8, Block 262, commonly referred to as 70 Van Winkle Avenue (the “Property”), located in the R-2-Single Family Residential Zone; and

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

(i) The request is for approval to allow installation of a swimming pool with accessory equipment resulting in an impervious coverage of 60% where 50% is allowed;

**WHEREAS**, the Board reviewed this matter at its public hearings on May 15, 2017 and June 19, 2017; 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 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 March 9, 2017, along with a plan prepared by Len DiTomasso, LSA, dated December 14, 2016, last revised June 6, 2017. This represents a change to the initial application. The original application requested impervious coverage of 68.5% and a 4 foot side yard setback. The pool has been reduced in scope, fits better on the property, and does not interfere with the function of the existing driveway or garage.

4. 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.

5. In this instance, the Applicant has demonstrated that due to the existing conditions of the property, the type, location and size of the pool and the fact that the lot meets or exceeds all other bulk zoning parameters, 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 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.

6. In reviewing the Application, evidence and testimony, the Board further 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 Dina and Paul Murphy with respect to the Property, requesting variance relief as set forth above, be and is APPROVED for the requested side yard setback variance 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 August 21, 2017.

  
Raymond Hallock, Chairman

  
Joan Herve, Board Secretary

OFFERED BY: DeRitter  
SECONDED BY: Schroter  
VOTE: Ayes: 7  
Nays: 0