

RESOLUTION #2016-008

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

In the matter of:

**Nabil Mahmoud (“Applicant”)
19 Cathy Avenue
Lot 3, Block 233.01
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 3, Block 233.01, commonly referred to as 19 Cathy 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) Rear Yard Setback: Required side yard setback is 50 feet. Applicant proposes a rear yard setback of 29.05 feet. (The side yard setback exists at 6.11 feet and this proposal seeks a 7.96 foot setback where 15 feet is required);

WHEREAS, the Board reviewed this matter at its public hearing on April 18, 2016; 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 March 15, 2016, along with a plan prepared by Heritage Madison Architecture, LLC dated December 21, 2015 consisting of two (2) sheets.

4. Applicant proposes an addition placed towards the rear of the house.

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 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 rear 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 Nabil Mahmoud with respect to the Property, requesting variance relief as set forth above, be and is APPROVED for the requested rear yard and 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.
5. Applicant shall have the existing shed located no closer than 10 feet to the home after the addition is installed. If relocation is required, then Applicant shall also meet the requisite side and rear yard setbacks for accessory structures.

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 May 16, 2016.

Ray Hallock
Ray Hallock, Chairman

Joan Herve
Joan Herve, Board Secretary

OFFERED BY: Gallagher
SECONDED BY: Chamberlin
VOTE: Ayes: 5
Nays: 0
abstained - 2