

**RESOLUTION #2016-004**

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

**In the matter of:**

**Melissa and Brian Neville  
566 Lincoln Avenue  
Block 207, Lot 4  
Hawthorne, New Jersey**

**WHEREAS**, Melissa and Brian Neville (“Applicant”) made application to the Borough of Hawthorne Board of Adjustment for bulk variance approval in connection with the premises known as Block 207, Lot 4, 566 Lincoln Avenue, Hawthorne (the “Property”), located in the Borough’s R-1 Single Family Residential Zone; and

**WHEREAS**, the Applicant proposes to construct a wood deck to the existing home which deck will encroach into the required side yard setback pursuant to Section 540-11 of the Zoning Ordinance of the Borough of Hawthorne; and

**WHEREAS**, the Board reviewed this matter at its public hearing on March 21, 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**, pursuant to N.J.S.A. 40:55D-10(g), a decision must be reduced to writing and shall include findings of fact and conclusions based thereon; 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, located at 566 Lincoln Avenue, known and identified as Lot 4, Block 207. The Property is located in the R-1 Residence 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 along with plans entitled “Proposed Addition and Alterations – Neville Residence”, consisting of three sheets, prepared by Jacob Solomon Architect, LLC, dated January 19, 2016 for review by the Board in connection with Applicant’s request for variance relief (the “Plans”).

4. The Property is a 11,250 square foot lot currently improved with a one-family residential structure and detached garage.

5. The Applicant requested a variance from Section 540-11 of the Hawthorne Zoning Ordinance to permit a side yard setback of 7.44 feet where 15 feet is required.

6. Applicant’s architect, Jacob Solomon, was sworn and accepted as an expert in the field of architecture. He testified that, in addition to the proposed deck, Applicant seeks to construct a fully conforming two story addition at the back of the home. There is no other practical location for the proposed deck. Also, the existing side yard setback to the house on the east side is closer than the proposed deck.

7. The plans show the existing location of the structures at the Premises, and the Board concludes that a hardship exists.

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Adjustment of the Borough of Hawthorne that the application of Melissa and Brian Neville with respect to the Property, requesting bulk variance approval, be and is hereby APPROVED 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 Board is satisfied that the statutory criteria for the grant of variance approval have been met by the Applicant.

3. The Applicant seeks variance relief pursuant to N.J.S.A. 40:55D-70(c)(1), which requires that the Applicant show that due to a 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.

4. In this instance, the Applicant's Property is an undersized lot with an existing dwelling already situated on the Property in a non-conforming location. Given the size and configuration of the Property and the existing location of the dwelling, the variance relief being requested is necessary. More importantly, the proposed deck will not exacerbate any existing nonconformities. Accordingly, the Board finds the Applicant has demonstrated that, due to the above, the strict application of the particular regulations of the Hawthorne Zoning Ordinance would be an undue hardship upon the Applicant in this instance.

5. The Board also finds that the benefits to be derived from granting the variances outweigh any possible detriment resulting from the approval of the variance. The granting of the requested relief will not be a substantial detriment to the public good and will not substantially impair the intent and purpose of the zone plan or zoning ordinances of the Borough of Hawthorne.

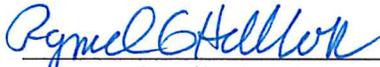
6. The Applicant shall obtain approval from all other governmental agencies having jurisdiction over the subject Application and development, if any.

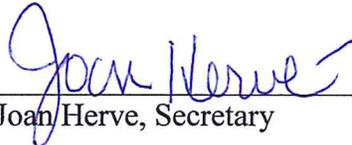
7. The Applicant shall pay all fees due and owing to the Borough of Hawthorne, including the posting of any application fees, review fees, inspection fees and/or escrow fees which may be due, prior to the issuance of any building permits.

8. The Applicant shall comply with all applicable rules, regulations, ordinances and statutes of the Borough of Hawthorne, County of Bergen and State of New Jersey with regard to the application.

9. All work to be done shall be done in accordance with the Plans.

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 April 18<sup>th</sup>, 2016.

  
 Raymond Hallock, Chairman

  
 Joan Herve, Secretary

Name	Motion	Second	Yea	Nay	Abstain	Absent
Hallock			X			
Gallagher					X	
DeRitter						X
Chamberlin	X		X			
Sasso			X			
Schroter						X
Duffy		X	X			
Leininger			X			
Agnello						X