

RESOLUTION #2015-009

**RESOLUTION OF THE BOARD OF ADJUSTMENT
OF THE BOROUGH OF HAWTHORNE
(the "BOARD")**

In the matter of:

Christian Health Care Center (the "Applicant")

**Block 293, Lots 1, 1.01, 1.02, 1.03, 1.04 and 1.05 (the "Property" or the "Premises")
Hawthorne, New Jersey**

WHEREAS, Applicant has submitted a certain application to the Board dated June 1, 2015 for Amended Use Variance and Site Plan Approval (collectively, the "Application"); and

WHEREAS, a Public Hearing was held on June 22, 2015; and

WHEREAS, Applicant previously received Preliminary and Final Site Plan, Use Variance, Variance and Waiver approval as memorialized in the Board's Resolution dated July 21, 2014; and

WHEREAS, after receipt of said approval, Applicant revised its site plan, bearing a last revision date of October 30, 2014 ("Revised Plan"); and

WHEREAS, the Board's Engineer, Boswell McClave Engineering submitted its review letter, dated June 18, 2015 addressing certain changes made to the aforesaid Revised Plan; and

WHEREAS, the Board reviewed the Revised Plan and Testimony presented at the June 22, 2015 Public Hearing.

NOW THEREFORE, after due consideration the Zoning Board of Adjustment of the Borough of Hawthorne makes the following findings of fact, based upon the evidence presented at its public hearings and the findings enumerated herein:

1. The Board hereby adopts, in its entirety, this Boards prior Resolution of Approval

entitled "In the Matter of the Application of Christian Health Care Center" dated July 21, 2014 inclusive of all findings of fact, conclusions of law and conditions established therein as if set forth herein at length;

2. Applicant's Engineer, Kenneth Karle, P.E. supplemented his prior testimony, commenting on the Revised Plan. He discussed the changes to the revised Plan, namely: the rearrangement of the underground parking in Wyckoff; Wings C, D and E were reduced in width by 3 feet; the safety was enhanced by adding more stairs and sidewalks for discharge doors; while the overall unit count remained the same there was a redistribution of 1 and 2 bedrooms (now 95 1-bedrooms and 104 2-bedrooms) resulting in fewer overall beds; there is an overall reduction of building coverage; there is a slight (1,221 s.f.) increase in impervious coverage; there is a change in the loading dock off of the lower entrance road in Wyckoff.

3. There were no changes to the previously approved variances.

4. The Applicant agrees and stipulates to provide eight (8) affordable rental units on the Property, or such other location deemed acceptable by the Borough of Hawthorne, toward satisfaction of the Borough of Hawthorne's Mount Laurel Affordable Housing obligation.

5. The Board determines that the Revised Plan is designed to and meets recognized, sound engineering principals, is safe and efficient.

THEREFORE, BE IT RESOLVED, that the Board hereby grants Applicant's request for Amended Site Plan and Use Variance Approval, subject to the following conditions:

1. These Conditions of Approval shall be binding upon the Applicant, the owner, and any successors and/or assigns of either.

2. The Applicant shall comply with all stipulations made during the hearing on this application.

3. The Applicant shall promptly pay any professional staff fees billed, in excess of the required application escrows.

4. The Applicant must obtain approvals from any and all other governmental and/or public agencies as required, whether federal, state, county or local, over which the Board has no control but which are necessary in order to finalize and/or implement the relief being granted herein, as well as any construction that may be a part of said relief. The Applicant is solely responsible for determining which governmental and/or public agencies, if any, such approvals are required of. The Applicant is further required to submit a copy to the Board's secretary of all approvals and/or denials received from such outside agencies, with a copy thereof to the Board's Attorney, Engineer and Planner.

5. Any improvement(s) to be constructed as a result of this approval shall be constructed and operated in full compliance with the Code of the Borough of Hawthorne, the Revised Statutes of the State of New Jersey and any other applicable county and/or federal law.

6. Prior to construction, Applicant shall (if not already done):

A. Submit five copies of a complete survey of the property (except for streets) to be dedicated, which survey shall be performed and certified by a licensed surveyor;

B. Submit a topographic survey showing contour intervals of two feet at a scale no larger than one inch equaling 100 feet;

C. Submit five copies of complete (as-built) plans of any improvements on the Property (to be delivered after all improvements are installed and approved).

7. The Applicant shall certify that all taxes and assessments have been paid up to the present time.

8. The Applicant shall submit to the Board Engineer for his review a sufficient number of complete sets of plans which shall incorporate all of the revisions that have been made conditions of this approval.

9. The Applicant shall construct all drainage basins or alternate drainage facilities upon the Premises, including inflow and outflow structures according to a construction schedule reviewed with and approved by the Hawthorne Borough Engineer.

10. The Applicant shall correct and make safe any dangerous or unsafe condition caused by the Applicant or those acting for and/or on its behalf affecting public safety or general welfare if any such condition develops.

11. The relief as granted herein is subject to the discovery of any and all deed restrictions upon the Premises which had not been known or had not been disclosed to the Board, but which would have had a materially negative impact upon the Board's decision in this matter had they been so known, or so disclosed.

12. The Applicant must maintain an escrow account with the Borough and pay the costs of all professional review and other fees required to act on the Application, pursuant to the applicable sections of the Borough's land development ordinances, zone codes and any other applicable municipal codes, and the New Jersey Municipal Land Use Law. The Applicant's escrow account must be current prior to any permits being issued, or construction or other activity commencing on the approved project.

13. The Applicant must obtain all other construction or other municipal permits required with respect to the relief as granted herein.

14. Any improvement(s) to be constructed as a result of the Board approving this application shall be constructed and operated in full compliance with the Uniform Construction

Code, Code of the Borough of Hawthorne, the Revised Statutes of the State of New Jersey and any other applicable county, state and/or federal law.

15. The Applicants/owners are hereby advised that this application and plan have not been reviewed for conformance with the Americans with Disabilities Act (ADA). It is the responsibility of the Applicants/owners to conform to said legislation.

16. Applicant will provide the Borough with the right to require modifications and changes to the lighting for a period of up to 6 months after installation.

17. All landscaping will be irrigated.

18. Applicant will satisfactorily address any required NJDEP site cleanup requirements.

19. Applicant will submit to Title 39 Jurisdiction and shall send a letter to the Hawthorne Mayor and Council to that effect.

20. The Applicant will enter into a Developer's Agreement and post all requisite Bonds, Fees and Insurance.

21. Applicant will install fire sprinklers in all structures and units, as directed by the Hawthorne Fire Code Official.

22. The Applicant shall provide eight (8) affordable rental units on the Property, or such other location deemed acceptable by the Borough of Hawthorne, toward satisfaction of the Borough of Hawthorne's Mount Laurel Affordable Housing obligation.

23. In the event any change to the layout, number of units or change of a two bedroom unit to another type of unit that would expand the nature of the relief granted herein, the Applicant must make application to the Board.

24. The Applicant shall comply with all requisite development fee; water connection fee; and sewer connection fee obligations, if any, resulting from this approval.

25. The Applicant shall satisfy and abide by all comments set forth in the Boswell McClave letter dated June 18, 2015.

26. A rail, in a type and material approved by the Board Engineer will be installed atop all retaining walls.

27. The Board presumes that the Applicant's application, all exhibits, maps and other documents submitted and relied on by the Applicant, are true and accurate representations of the facts relating to the applicant's request for relief. In the event that it appears to the Board, on reasonable grounds, that such application, exhibits, maps and other documents submitted are not accurate, are materially misleading or are the result of mistake, and the same had been relied upon by the Board as they bear on facts which were essential in the granting of the relief sought by the Applicant, the Board may rescind its approval and rehear the application, either upon application of an interested party or on its own motion, when unusual circumstances so require, or where a rehearing is necessary and appropriate in the interests of justice.

28. The Applicant will comply with all other conditions as set forth in Resolution of Approval entitled "In the Matter of the Application of Christian Health Care Center" dated July 21, 2014.

BE IT FURTHER RESOLVED, that the Borough of Hawthorne is hereby directed to mail a copy of this Resolution to the Applicant and/or the Applicant's attorney and to file copies of this Resolution with the Borough Clerk, Borough Construction Official, Borough Tax Assessor and Borough Zoning Officer and to cause notice of these determinations of the Zoning

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 7/20, 2015.

Raymond G. Hallock
 Raymond G. Hallock, Chairman

Joan Herve
 Joan Herve, Secretary

Name	Motion	Second	Yea	Nay	Abstain	Absent
Hallock			X			
Gallagher			X			
DeRitter		X	X			
Chamberlin					X	
Terraglia	X		X			
Schroter			X			
Duffy					X	
Melfi						X
Agnello						X