

**RESOLUTION #2018-009**

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

**In the matter of:**

**Ryan and Kristina Vogel (“Applicant”)  
71 Highview Terrace  
Lot 28, Block 292  
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 28, Block 292, commonly referred to as 71 Highview Terrace (the “Property”), located in the R-1-Single Family Residential Zone; and

**WHEREAS**, as a result of the Application, Applicant requests approval to allow construction of a home expansion inclusive of garage expansion with an “add-a” level”, resulting in the following variance relief:

(a) minimum front yard setback to Center Line of Right-of-Way 75 feet required. A setback of 59.25 is proposed;

(b) minimum front yard setback to property line is 50 feet required. A setback of 34.25 feet is proposed;

(c) minimum side yard setback (Aggregate) is 40 feet required. A setback of 34.63 feet is proposed; and

**WHEREAS**, the Board reviewed this matter at its public hearing on October 15, 2018; 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 September 12, 2018, along with a plan prepared by Blueline Architecture, LLC dated July 5, 2017 (last revised September 12, 2018). The Applicant's architect, Wayne Johnson, was sworn and accepted as an expert in architecture. The Board finds, based on his testimony, that the existing split level home does not function efficiently based on its layout and orientation. With certain modest improvements as set forth on the plan, the efficiency and use of the home for a family of six is greatly improved. It is noted that while there is ample room to expand the rear of the home, such an expansion is not feasible because the rear yard is severely sloped. These all represent hardships.

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 home and garage and the fact that there are significant slopes which make it extremely difficult to construct any additions to the rear of the home, 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 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 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 Ryan and Kristina Vogel with respect to the Property, requesting variance relief as set forth above, be and is APPROVED for the requested front yard setback variances and side yard (combined) setback variance enumerated above, subject to the terms and conditions hereinafter set forth:

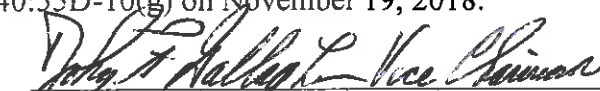
1. The foregoing findings of fact and conclusions of law are incorporated herein as if set forth at length.

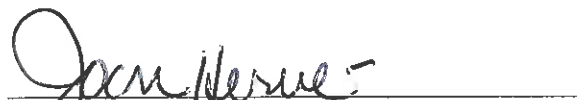
2. The Applicant shall obtain approval from all other governmental agencies having jurisdiction over the subject Application and development, if any.

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 November 19, 2018.

  
John F. Gallagher, Vice Chairman

  
Joan Herve, Board Secretary

OFFERED BY: Gallagher  
SECONDED BY: Sasso  
VOTE: Ayes: 5  
Nays: 0  
Abstain - 2