

**BOROUGH OF HAWTHORNE  
PLANNING BOARD**

**RESOLUTION GRANTING SITE PLAN AND VARIANCE APPROVAL FOR  
PREMISES KNOWN AS BLOCK 106, LOTS 2, 3 & 4,  
KNOWN AS 329 and 341 LAFAYETTE AVE., BOROUGH OF HAWTHORNE  
COUNTY OF PASSAIC, STATE OF NEW JERSEY**

**WHEREAS**, an application has been submitted to the Borough of Hawthorne Planning Board by JP Morgan Chase Bank NA for site plan and variance approval for premises known as Block 106, Lots 2, 3 & 4 on the current tax assessment map of the Borough of Hawthorne; and

**WHEREAS**, a public hearing of the Planning Board was held on Tuesday, February 20, 2024 (in which due notice was given) and during which the Planning Board heard testimony by the applicant and its consultants, representatives, and experts, and the Planning Board reviewed and considered all correspondence, maps, plats, reports and public input, if any, on the application, as well as a presentation by the applicant's attorney, Danielle Federico, Esq., together with all exhibits submitted as evidence; and

**WHEREAS**, along with the application, the applicant submitted the following plans:

Plans entitled "JP Morgan Chase, 329 Lafayette Ave. & 341 Lafayette Ave. Block 106, Lots 2, 3 & 4" prepared by Black & Veatch Corporation, dated February 23, 2023, with a final revision date of February 1, 2024, consisting of 14 pages;

Plans entitled "Solar Canopy JP Morgan Chase, 331 Lafayette Ave., Hawthorne, NJ" prepared by Tebbens Steel, dated August 24, 2023, consisting of 4 pages:

Map entitled "Engineering Design Survey" prepared by Clark Land Surveying, inc. dated September 27, 2021; and

**WHEREAS**, the submissions by Applicant have been reviewed by the Planning Board engineers, Boswell Engineering, and their comments and recommendations are set forth in their letters to the Planning Board dated January 12, 2024 and February 16, 2024; and

**WHEREAS**, during the public hearing the following was introduced by the applicant as exhibits:

A-1 Map entitled "Engineering Design Survey" prepared by Clark Land Surveying, inc. dated September 27, 2021;

A-2 Plan entitled "Overall Site Plan" prepared by Black & Veatch Corporation, dated February 23, 2023, with a final revision date of February 1, 2024:

A-3 Photographic Simulation, prepared by Black & Veatch Corporation, dated December 1, 2023, consisting of 3 pages.

**WHEREAS**, the application submitted by the applicant requests the following relief:

Section 540-141 C Maximum height of accessory structure permitted is 12 feet; 17 feet 4 1/16 inch requested; and

**WHEREAS**, the applicant has requested a number of waivers which are fully set forth in the Board Engineer's review letter; and

**WHEREAS**, the Planning Board has determined that the waivers may be granted as the information is not necessary to adequately consider the application; and

**WHEREAS**, The Planning Board heard testimony from the applicant's representatives as follows:

Arron Chan appeared on behalf of the applicant and was accepted by the Board as an expert in the field of engineering. He introduced Exhibits A-1, A-2 and A-3 and gave the Board a description of the existing site which consists of three separate lots which will be merged into one lot as part of this application.

The proposed solar structure measures 99 feet by 33 feet. The supports are located along the center of the structure. The structure will be placed over the existing parking and drive-thru lane located in the rear of the building. It is pitched to allow for snow and rain runoff.

A variance from the height limitations of the zoning ordinance is required. The height at the highest end is 17 foot 4 1/16 inches, and on the low side, the height is 14 foot 5 inches. The height is necessary to allow for emergency vehicles to drive underneath.

With respect to the parking area, there are currently 41 parking spaces provided and 41 proposed. There is no change to the configuration of the parking spaces. The support beams for the structure are within the corners of the parking stalls but because of the angle of the stall they do not create an impediment to the stalls. There is no change to the aisle width or the traffic circulation. Four LED lighting strips are proposed under the canopy which in his opinion is sufficient lighting for safety.

Certain areas of the parking lot will be repaired/regraded to allow for better drainage.

In response to a comment from a Board member, he agreed that snow guards and gutters could be installed to prevent runoff on cars and pedestrians below. The gutters could be piped directly into the subsurface drainage system.

T.J. Ricci testified on behalf of the applicant and was accepted by the Board as an expert planner. He testified that there would be insufficient clearance for emergency vehicles if the structure met the height requirements of the zoning ordinance. With respect to the placement of the supporting structure, the placement of the supports in the spaces does not affect the parking

space access.

He noted that he had reviewed the Borough's Master Plan which advocates renewable energy resources, which is also a purpose of the Municipal Land Use Law, specifically 40:55D-2n. This application for the solar structure furthers that purpose. Accordingly, it is his opinion that the variance requested should be permitted under 40:55D70c2 as the purposes of the Act are advanced, the height provides sufficient clearance for emergency vehicles, and there is no substantial detriment to the public good, nor does it substantially impair the intent and purpose of the zoning ordinance.

**WHEREAS**, the matter was open to the public for questions of the witness and comments to the application. No one from the public appeared; and

**WHEREAS**, the Planning Board makes the following findings of fact/conclusions of law:

1. The property consists of three separate tax lots. The property is currently used by JP Morgan Bank for a branch office and related parking. The merger of the three lots into one tax lot is consistent with the use of the property.

2. The Board acknowledges that the parking space size and aisle width do not uniformly meet the requirements of the current zoning ordinances. However, the property has been used for its current use for many years without any apparent difficulty. The proposed structure does not have any effect on the existing parking spaces or access.

3. NJSA 40:55D-70c2 authorizes the Board to grant a variance from the zoning ordinance where the purposes of the Act would be advanced. Section 2n of the Act provides that a purpose of the Act is to promote utilization of renewable energy resources. The proposed installation of this solar system clearly advances that purpose.

4. The proposed height is necessary to allow emergency vehicle access on the property which the board finds to be necessary for safety purposes. Given the size of the property, the relatively de minimis nature of the increase in height will not be readily observant. The Board also finds that the proposed structure is an open structure which will lessen any impact.

**WHEREAS**, the Planning Board has considered the request by the applicant for the variances and waivers set forth above. In considering the overall application to be in accordance with sound and proven zoning and planning principles, the Planning Board has determined that, based on the above mentioned facts and the testimony of the witnesses, the requested variances can be granted without causing a substantial detriment to the public good, nor substantially impairing the intent and purpose of the Hawthorne Zoning and Land Use Ordinance.

**NOW, THEREFORE, BE IT RESOLVED**, by the Planning Board that based upon the above findings of fact and conclusions of law that the application of JP Morgan Chase Bank NA for preliminary and final site plan approval for those premises known as Block 106, Lots 2, 3 & 4, 329 & 341 Lafayette Ave., along with the waivers and variances set forth herein in accordance with the plans and exhibits is hereby granted; and

**BE IT FURTHER RESOLVED** that the approvals set forth above are subject to the following conditions:

1. That the granting of the application is subject to the approval of the Passaic County Planning Board, if necessary.
2. The applicant shall obtain and comply with any federal, state, county, and borough government rules, ordinances, or regulations with regard to the granting of the applications hereto, including the payment of all fees and escrows, established by the Borough for the review of the subject application.
3. All lighting on the site shall be restricted to this site and shall not spill over on any other sites.
4. Any and all outstanding escrow fees shall be paid in full and the escrow account shall be replenished to the level required by ordinance within 30 days of the adoption of a resolution, within 30 days of written notice that a deficiency exists in the escrow account, prior to signing the site plan and/or subdivision plat, prior to the issuance of a zoning permit, prior to the issuance of construction permits, and prior to the issuance of a temporary and/or permanent certificate of occupancy, completion or compliance as applicable;
5. The applicant shall construct the proposed improvements in strict compliance with the documentary and testimonial evidence submitted to the board, including, but not limited to, any plans submitted or presented as part of the application, any exhibits introduced into evidence, and any statements made during the course of the hearing;
6. The applicant shall ensure that the property remains orderly during and after construction (i.e. building materials are appropriately stored, construction debris is timely removed);
7. The applicant shall repair/regrade the parking area to allow better drainage as represented and subject to the review and approval of the Planning Board engineer.
8. The applicant shall install snow guards and a gutter on the structure, which gutter shall be piped directly to the existing storm drain. Plans for the installation shall be subject to the review and approval of the Planning Board engineer.
9. Any conditions of approval stipulated to by the applicant during the hearing are incorporated herein, even if not specifically stated;
10. The aforementioned approval shall be subject to all requirements, conditions,

restrictions, and limitations set forth in all prior governmental approvals, to the extent same are not inconsistent with the terms and conditions set forth herein.

11. The applicant shall file a deed merging the three lots into one lot. The applicant shall submit a proposed deed to the Planning Board for approval.

**BE IT FURTHER RESOLVED** that the Chairman and the Secretary of the Board are hereby authorized to affix their signatures to this resolution granting approval for preliminary and final site plan and variances. The Secretary of the Board is hereby authorized to advertise the action taken by way of this resolution in the local newspaper and furthermore send certified copies of this resolution to the Borough tax assessor, construction code enforcement official, building sub-code official, zoning official, the borough attorney, and the applicant's attorney.

Approved:

**Planning Board of the Borough of Hawthorne**

By:

  
ROBERT LUCIBELLO, *Chairman*

  
JANICE PATMOS, *Secretary*