WHEREAS, application has been made to the Hawthorne Planning Board by **293 Lafayette, LLC** for site plan approval and variances for property commonly known as 293 Lafayette Avenue and also known as Block 105, Lots 12 and 13, on the Borough Tax Map, located in the B-2 Central Business Zone; and

WHEREAS, the applicant has submitted to the Board satisfactory proof of publication and service of notices of the application as required by law; and

WHEREAS, the Planning Board conducted a public hearing on said application on September 6, 2016 at which time the applicant offered expert and lay testimony in support of the application, the Board had the benefit of a report submitted by the Board engineer and the Board opened the hearing for comment by the public; and

WHEREAS, the applicant was represented by Darryl W. Siss, Esq.; and

WHEREAS, the Board, during the course of the public hearing, admitted into evidence and considered the following exhibits:

A-1 – Easement Agreement between 293 Lafayette, LLC and EMS Realty Associates, LLC

A-2 – Letter dated August 29, 2016 from Darryl W. Siss, Esq. to Jacob and Henrietta Van Beuzekom

A-3 – Site Plans (5 sheets) entitled, "Preliminary and Final Site Plan for 293 Lafayette, L.L.C., Borough of Hawthorne, County of Passaic, New Jersey", prepared by Rigg Associates, P.A., dated June 21, 2016.

The plans consist of the following sheets:

Drawing No.	Description
1 of 5	Cover Sheet
2 of 5	Existing Conditions & Demolition Plan
3 of 5	Site Layout
4 of 5	Grading, Utility, Soil Erosion & Sediment Control Plan
5 of 5	Details

A-4 – Sketch plan prepared by Rigg Associates, P.A. showing parking lot with angled spaces

A-5 – Architectural Plans (3 sheets) entitled, "Proposed Building for: 293 Lafayette, L.L.C., 293 Lafayette Ave, Hawthorne, N.J.", prepared by Edward A. Easse, R.A., dated February 11, 2015, last revised June 23, 2016.

Drawing No.	Description
A-01	Elevations
A-02	Ground & Second Floor Plan
A-03	Basement Floor Plan

WHEREAS, the Board heard testimony from Gabriel Juliano. Mr. Juliano testified that he is one of the partners of the applicant, 293 Lafayette, LLC. He indicated that the applicant proposes to develop a two story commercial building with a mansard roof. If approved, an existing medical practice would move into the building together with a primary care doctor. Although the building is proposed to be occupied primarily by medical offices, some retail uses and/or office uses are possible. Mr. Juliano stated that the proposed uses would be less intense than the Heart-Lung Center which formerly utilized the adjacent parking lot. He also offered his opinion, based on his experience as a developer of commercial properties, that the proposed parking for the site, utilizing the adjacent parking lot in accordance with the easement agreement, would be adequate and that 9 foot by 18 foot parking spaces are reasonable for this situation. He advised the Board that the basement would be used only for storage, primarily for medical records, and that the building would be sprinklered. Approximately 25% of the total square footage of the proposed building would be occupied by a wound care medical practice and a primary care doctor on the first floor.

WHEREAS, the Board heard testimony from Bruce D. Rigg, P.E., P.L.S., P.P., the applicant's engineer. Based on his numerous previous appearances before the Board, Mr. Rigg was offered and accepted as an expert witness. After being sworn, he testified that he prepared the site plan submitted in support of the application. He described Exhibit A-3, the site plan dated June 21, 2016 consisting of five sheets. The existing conditions shown on the plans are a two story building and a garage on Lot 13 which the applicant is under contract to purchase and the parking lot on Lot 12 owned by EMS Realty Associates. All existing buildings on Lot 13 are to be demolished. Existing access to the subject site is from Lafayette Avenue with the exit on Grand Avenue. Sheet 3 of the plans shows the proposed building to be erected with the front of the building facing the parking lot, not Lafayette Avenue. The building size would be a total of 14,465 square feet with a rentable area of 12,500 square feet. A sideyard variance would be required for both sides of the property. Fifty-seven parking spaces (9 feet by 18 feet) are shown on the plan. Under the general parking provision in the borough ordinance, based on square footage, sixty-three spaces would be required; using the standard for doctors' offices, assuming occupancy by twelve doctors, eighty-eight spaces would be required. Mr. Rigg indicated that landscaping is shown at the building entrance and in the rear of the property. LED lighting is proposed on the building and on light posts. Mr. Rigg represented that the fence shown on the south side of the parking will be replaced with a guard rail on top of the wall which will eliminate the need for a variance for fence height. The applicant will also add bollards in front of the parking spaces adjacent to the building entrance.

Mr. Rigg indicated that he had discussed the angled parking issue with a representative of the Passaic County Planning Board. He offered as Exhibit A-4 a sketch plan showing the parking

lot with angled spaces as requested by the County Board. As shown on the sketch plan, eight fewer spaces would be provided with angled spaces. Mr. Rigg indicated that a building height variance is required based on a proposed height of 26.9 feet where a maximum of 25 feet is permitted. Mr. Rigg confirmed that the sanitary sewer connection will be made into Lafayette Avenue. He also stated that impervious coverage on the site will be reduced by the addition of islands in the parking area.

WHEREAS, the Board heard testimony from Edward A. Easse, R.A., P.P., the applicant's architect and planner. Also based on his numerous previous appearances before the Board, he was offered and accepted as an expert witness both as an architect and planner. He testified that he prepared Exhibit A-5, architectural plans consisting of three sheets, dated February 11, 2015 and last revised June 23, 2016. He described the proposed structure as a rectangular building fronting on the parking lot. The building would have a full basement for storage, with an elevator to the basement and second floor. It would be a multi-use, ADA compliant structure with a brick façade and a covered walkway at the front entrance. Mr. Easse stated that the proposed height is necessary to accommodate the anticipated medical uses but represents a reduction in height from the existing building on the site. A mansard roof is proposed to hide the air conditioning units which would be located on the roof. The applicant would clean up the existing parking lot. Mr. Easse offered his opinion that the roof overhang provides the covered walkway at the building entrance and provides justification for the required variance. In addition, the overhang is located next to an open parking lot and would not negatively impact a neighboring property. With regard to parking space size, Mr. Easse stated that nine feet by eighteen feet is now the planning standard. Similarly, he indicated that a twenty-four foot back-up width is also standard. Based on the proposed one-way traffic

through the site, he offered his opinion that the benefits of granting the requested variances outweigh the detriments.

WHEREAS, the Board engineer submitted a written report dated August 2, 2016.

WHEREAS, the Board opened the hearing for comment by the public at which time no members of the public requested the opportunity to speak.

WHEREAS, the Board, after considering the testimony and exhibits introduced at the public hearings, the arguments of counsel and the report and comments of the Board engineer, does hereby make the following findings of fact and conclusions of law:

1. The applicant is the contract purchaser of Block 105, Lot 13 which is owned by Heart Lung Associates of America Holding, LLC. The adjacent property, Lot 12, is owned by EMS Realty Associates and utilized as a parking lot for the Hawthorne Theater.
2. Lot 13 is currently developed with a vacant two and one-half story mixed use structure as well as a single story garage.
3. The applicant proposes to demolish all existing structures on Lot 13 and construct a two story masonry building with a full basement for a mixed use development with medical offices and possible retail uses.
4. The applicant also proposes to reconstruct the existing parking lot on Lot 12 including signage, striping, lighting, landscaping and a retaining wall.
5. The proposed use is permitted in the B-2 Central Business Zone.
6. Approval of the application requires the granting of the following variances: Maximum building height - Maximum 25 feet permitted, 26.9 feet proposed

Sideyard setback, both sides - 10 feet required, 0 proposed on north side, 7.4 feet proposed on south side to the foundation, 3.4 feet to the overhang

Front yard setback (Street side) - 10 feet required, 10.2 feet proposed to foundation, 6.2 feet to overhang

Parking space size - 10 feet by 20 feet required, 9 feet by 18 feet proposed

Turnaround area - 25 feet required, 24 feet proposed

Fence height around dumpster - Maximum 4 feet permitted, 6 feet proposed

With regard to building height, the Board accepts the testimony of the applicant's expert that the proposed height is necessary to accommodate the medical offices. In addition, the height would be less than the existing building. The Board also noted that since the height limit for residential structures is thirty-five feet, the twenty-five foot limit for a commercial building seems overly restrictive. With regard to the side yard setbacks, the existing building had no setback on the north side and the narrow shape of the lot restricts the design of the proposed building. With regard to the front yard setback, the proposed setback to the foundation meets the ordinance requirement. The proposed overhang offers protection from the elements and has no negative visual effect. The proposal represents an improvement from the existing setback of 7.3 feet. With regard to parking space size and turnaround area, the requested variances are reasonable in size and consistent with current standards.

7. With regard to the minimum required number of parking spaces, the Board finds that there is no parking requirement in the Zoning Ordinance

applicable to the B-2 Zone. The applicant's plan provides for fifty-seven parking spaces. Under the general parking provision in the ordinance for medical offices, a maximum of eighty-eight spaces would be required. The Board is satisfied that the proposed parking for the site, as confirmed in the Easement Agreement presented by the applicant, will be sufficient. Notwithstanding the Board's finding regarding the lack of an applicable standard, the Board will approve a variance for the minimum required number of parking spaces, as a hardship based on the lack of available space for parking, which is common in the B-2 Zone.

The Board considered the requirement in the County Planning Board letter dated August 26, 2016 that the plans be revised to show angled parking spaces to reinforce the one way traffic pattern. The Board finds that the loss of eight parking spaces is not outweighed by the benefit of angled parking to improve the traffic flow. The Board further finds that the proposed and required signage will adequately direct the traffic pattern without reducing on-site parking which is limited in the central business district.

8. The Board finds, based on the review of the proposed plans and the report of the Board engineer, as well as the testimony of the applicant's experts, that the planning benefits of the applicant's proposal, under N.J.S.A. 40:55D-70(c)(2) outweigh any substantial detriment from the granting of the required variances.

9. The applicant also requested waivers from some of the checklist requirements in the applicable ordinance as listed in the report of the Board

engineer. Based on the opinion of the Board engineer as expressed at the hearing, the Board grants the waiver requests.

10. The Board finds that the required variances can be granted without substantial detriment to the public good and will not substantially impair the intent and purpose of the zoning ordinance and zone plan. The Board further finds that approval of the proposed site plan can be granted without significant negative impact upon public health, safety and general welfare.

WHEREAS, at its meeting on September 6, 2016, the Board approved a motion granting the application subject to the preparation of a memorializing resolution:

NOW, THEREFORE, BE IT RESOLVED, by the Planning Board of the Borough of Hawthorne, that the application of the **293 Lafayette, LLC** for site plan approval, variances and waivers be and hereby is granted subject to the following terms and conditions:

1. Conformance with the plans submitted by the applicant and admitted as exhibits and more specifically described above.
2. The applicant shall be bound by all exhibits introduced, all representations made and all testimony given before the Board at the hearings held on this application.
3. The applicant shall be responsible for obtaining any other approvals or permits from any other governmental agencies as required by law, specifically including but not limited to the Passaic County Planning Board and the Hudson-Essex-Passaic Soil Conservation District, and the applicant shall comply with any requirements or conditions of such approvals or permits. In the event that review of the applicant's plans by any other

governmental agencies requires changes which affect the terms and conditions of the Board's approval, the Planning Board retains jurisdiction to review the plans in light of the required changes.

4. Each prospective tenant must make application for certificate of compliance approval.
5. The applicant shall make application for all required signage approval.
6. The applicant shall install a sidewalk along Grand Avenue from the north property line to the south property line.
7. The applicant shall install bollards, planters and lighting in accordance with the Borough's streetscape requirements on-site and along Lafayette Avenue.
8. Construction of the applicant's proposal shall result in no increase in the rate of storm water runoff.
9. The basement shall be utilized for storage only.
10. The applicant shall provide additional parking lot striping and signage to reinforce the one-way travel direction through the parking lot from Lafayette Avenue to Grand Avenue.
11. The applicant shall revise the Soil Erosion Control Plan to depict the silt fence at least three feet from the curb.
12. The building to be constructed by the applicant shall be sprinklered with a NFPA-13 system.
13. The applicant shall satisfactorily address all comments in the Board engineer's report dated August 2, 2016.

14. The Board reserves the right to require modifications and/or changes in the site lighting for a period of six months after installation.

15. The applicant shall post all fees and deposits as required by the Borough Code including any deficiencies in any escrow account prior to issuance of a building permit and prior to the issuance of a certificate of occupancy.

The undersigned, Chairman of the Planning Board of the Borough of Hawthorne, hereby certifies that the above is a true copy of a resolution adopted by said Board on the 18th day of October, 2016.

WALTER GARNER, III, Chairman