

WHEREAS, application has been made to the Hawthorne Planning Board by the **Boys and Girls Club of Hawthorne** for site plan approval and variances for property commonly known as 148 Maitland Avenue and also known as Block 45, Lot 1, and Block 48, Lot 9 on the Borough Tax Map, located in the R-2 Residential 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 January 19, 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:

1. Exhibit A-1 - Lease Agreement between Borough of Hawthorne dated October 4, 1972
Lease Modification Agreement dated May 27, 2015
Lease Extension dated June 12, 2013
2. Exhibit A-2 - Plans prepared by Rigg Associates, PA dated November 18, 2015, with a revision date of December 23, 2015 consisting of three pages entitled:

Area Map;
Existing Conditions & Demolition Plan; and
Site Layout.
3. Exhibit A-3 - Plan prepared by Rigg Associates, PA dated April 24, 2015, entitled Topographic Survey.

4. Exhibit A-4 - Plans prepared by Edward A. Easse, Architect/Planner consisting of 4 pages entitled and dated as follows:

A-01 - Entitled Proposed Front and Left Side Elevations dated June 1, 2015 with a final revision date of October 21, 2015;

A-01A - Entitled Proposed Rear and Right Side Elevations dated October 21, 2015;

A-02 - Entitled Proposed First Floor Plan dated June 1, 2015 with a final revision date of 12/21/15;

A-04 - Entitled Proposed Basement Plan dated December 21, 2015.

5. Exhibit A-5 - Rendering prepared by Edward A. Easse, Architect

6. Exhibit A-6 - Nine location surveys showing setbacks of other properties on Maitland Avenue

WHEREAS, the Board heard testimony from John Bertollo. Mr. Bertollo testified that he is the chief executive officer of the Boys and Girls Club of Hawthorne. He advised the Board that the purpose of the application is a proposed expansion of the Positive Place Pre-School currently operated by the applicant at its existing facility on the adjacent property which is owned by the Borough of Hawthorne and leased to the applicant. The applicant has purchased the property which is the subject of this application. The primary reason for the expansion is the 2013 enactment of a New Jersey state requirement that children aged two and one-half years and younger cannot be placed on the second floor of a child care facility. The applicant has received state licensing approval for fifty-four children on the first floor of the proposed facility based on the state requirement of thirty-five square feet of floor space per child. The footprint of the proposed structure is based on the state square footage requirement. Thirteen staff members would work in the new building. The first floor would have three rooms with a maximum of twenty-four infants in one room and fifteen toddlers in each of the other two rooms. The second floor plan would consist of an office for the day care

director, a conference room, kitchenette and storage. No children would occupy the second floor. With regard to traffic flow, for the existing facility, children are dropped off at the front entrance of the building. The drop-off time period for the pre-school is between 7:30 and 9:30 A.M. The maximum number of staff personnel on site is forty-eight, which would occur between 2:00 and 4:30 P.M. There are ninety-four total parking spaces at the existing facility. No parking spaces are proposed on the site of the proposed facility. An outside play area is proposed in the rear of the property and lighting will be provided at the entry doors.

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. The plan was last revised on December 23, 2015. Mr. Rigg indicated that Sheet 2 of Exhibit A-2 shows existing conditions at the site including a residence, pool and shed, all of which are proposed to be demolished. The applicant would use Borough owned property for parking since no parking is proposed on the facility to be constructed. In addition, the subject site is bounded to the west by Borough owned property and County Park property. Mr. Rigg submitted Exhibit A-6 consisting of nine location surveys of nearby properties showing the front yard setbacks. The setback for the proposed structure would remain at 17.5 feet whereas nearby properties have setbacks of approximately 12 feet. A rear yard setback of 20 feet is proposed where 25 feet is required, but the rear yard abuts the parking area so there is no adverse impact on adjoining property. The proposal also requires a lot coverage variance with 38.1% proposed where a maximum of 35% is permitted. Mr. Rigg indicated that the coverage variance is necessary to comply with the State square footage requirements per child and the applicant is using the footprint of the

existing residence for design of the new structure. Although impervious coverage is being reduced from 56.6% to 53.8%, a variance is required since the maximum permitted is 50%.

With regard to stormwater, Mr. Rigg stated that no on-site detention is required since impervious coverage is being reduced under the applicant's proposal and no stormwater will be directed onto adjoining properties.

Mr. Rigg advised the Board that two ADA parking spaces will be added at the entrance to the proposed facility for a total of six ADA spaces in the applicant's parking lot.

Mr. Rigg outlined the applicant's requests for waivers from the Board checklist requirements and Peter Ten Kate, P.E., appearing on behalf of the Board engineer and previously sworn, advised that he had no objections to the waiver requests.

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. After being sworn, he testified that he prepared Exhibits A-4 and A-5 on the Exhibit List namely architectural plans of the proposed pre-school facility as well as a rendering of the new structure.

He described his intent in the design to maintain the visual look of a residence but create a "campus effect" with the applicant's existing building. He also hoped to make a transition between the residential character of Maitland Avenue and the existing Boys and Girls Club facility. He advised the Board that the building was designed to meet State safety requirements. The height to the top of the tower at the front corner of the building would be 34 feet, 6 inches, which would comply with the height limit in the ordinance. The front of the building would provide a covered walkway for protection from the weather.

Discussion took place regarding the proposed signage. Mr. Easse stated that the applicant's logo would be burned into the stucco façade of the tower and he argued that a sign variance should not be required since a physical sign was not being attached to the building. Board engineer Peter Ten Kate disagreed and offered his opinion that the proposal meets the definition of a sign in the applicable ordinance, thereby requiring a variance.

Mr. Easse then offered his opinion as a planner regarding the bulk variances required for approval of the application. With regard to the sideyards, he stated that the plan follows the existing footprint and the lot lines of the property are not parallel. The coverage variance is necessary to comply with the square footage requirements set by the State of New Jersey. In addition, the applicant is a non-profit organization providing a community need, namely child care. With regard to the rear yard, there are no residences impacted since the rear yard will abut the existing parking lot. He argued that the positives of the proposal outweigh any negative impacts in that the proposed use is permitted, and the design of the proposed facility provides a transition from the residential neighborhood to the existing Boys and Girls Club. He stated his opinion that the granting of the requested variances would not substantially impair the intent and purpose of the zone plan and zoning ordinance.

WHEREAS, the Board engineer submitted a written report dated January 12, 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 subject property is owned by the applicant and is located in the R-2 Residential Zone. The applicant also occupies the adjoining property (Block 48, Lot 9) which is owned by the Borough of Hawthorne and on which is located the applicant's Boys and Girls Club of Hawthorne facility, operated under a lease with the Borough of Hawthorne. The applicant has obtained consent from the Borough of Hawthorne to include the adjoining property as part of this application for the purpose of providing parking for the use proposed by the applicant.
2. The subject site is currently developed with a one family residence, an in ground pool and a frame shed.
3. The applicant proposes to demolish the existing structures, remove the pool and construct a new two story structure to be used as a pre-school facility known as Positive Place Pre-School which will be operated together with the Boys and Girls Club of Hawthorne on the adjoining property.
4. Under Section 540-10 of the Zoning Ordinance, as a school operated by a non-profit organization, the proposed use is permitted in the R-2 Zone.
5. The applicant purchased the subject property in order to expand its current pre-school based on recently enacted state legislation prohibiting the placement of children two and one-half years and younger on the second floor of a child care facility. The applicant's proposal, which has received state licensing approval, would provide facilities for a maximum of fifty-four children on the first floor and offices and storage on the second floor. No parking would be provided on the site, but adequate parking would be

provided in the adjacent lot for the applicant's existing facility which contains 93 parking spaces and will include 6 ADA spaces.

6. Approval of the application requires the granting of the following variances:

Front yard setback – 20 feet required, 17.5 feet proposed

Side yard setback – 10 feet required, 9.2 feet proposed

Rear yard setback – 25 feet required, 20 feet proposed

Lot coverage – Maximum 25% required, 38.1% proposed

Impervious coverage – Maximum 50% required, 53.8% proposed

Sign area – Maximum 30 square feet required, 45 square feet proposed

With regard to the front yard setback, the applicant's proposal maintains the footprint of the existing structure with a 17.5 foot setback whereas nearby properties have setbacks of approximately 12 feet. The sideyard also follows the existing footprint and the deficiency is fairly minimal. The rear yard will abut the parking area and will not impact any nearby residences. The coverage variance is necessary to comply with state square footage requirements for each child. Impervious coverage is actually reduced under the applicant's proposal but still exceeds the maximum permitted. The sign area exceeds the square footage permitted but will be burned into the façade of the tower and will be consistent with the existing logo signage on the adjacent Boys and Girls Club building.

7. With regard to the absence of a provision for on-site parking for the proposed pre-school facility, the Board is satisfied that adequate provision is made for use of the parking lot on the adjoining property leased by the applicant, subject to the

condition that the applicant record a deed imposing a restriction in the event of the future sale of the subject property.

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. The Board also notes that the applicant is a non-profit organization providing child care, and as such, meets the definition of "inherently beneficial use" under N.J.S.A. 55D-4.
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 January 19, 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 **Boys and Girls Club of Hawthorne** 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 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. Submission of a deed by the applicant for review by the Board attorney containing a restriction indicating that in the event of a future sale of the subject property by the applicant, and/or a proposed change in the use of the property, adequate provision for on-site parking would be required.
5. The Board's approval of the application is also conditioned on continuation of the existing lease arrangement between the applicant and the Borough of Hawthorne for the Boys and Girls Club on the adjoining property.

6. The Board reserves the right to require modifications and/or changes in the site lighting for a period of six months after installation.
7. 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 1st day of March, 2016.



WALTER GARNER, III, Chairman