

PLANNING BOARD OF THE CITY OF HACKENSACK

RESOLUTION

IN RE THE APPLICATION OF
J. FLETCHER CREAMER & SON, INC.
SITE PLAN REVIEW FOR INSTALLATION OF ROOF-MOUNTED SOLAR ENERGY
SYSTEMS
101 EAST BROADWAY, BLOCK 39.09, LOT 22.02
SP# 29-22 and V# 29-22

WHEREAS J. FLETCHER CREAMER & SON, INC. (hereinafter referred to as the “Applicant”) has applied to the Planning Board of the City of Hackensack (hereinafter referred to as the “Board”) for permission to install roof mounted solar panels on the three (3) existing buildings. The Applicant proposes to install a four hundred and six (406) module, 180.67 kW DC, 160.00 kW AC system on Building 1, a one hundred and forty-four (144) module, 64.08 kW DC, 55.00 kW AC system on Building 2, and a three hundred and eighty-four (384) module, 170.88 kW DC, 150.00 kW AC system on Building 3. No site improvements or building modifications are proposed at this time. The premises are identified as Block 39.09, Lot 22.02 on the official tax map of the City of Hackensack, County of Bergen, New Jersey, and commonly known as 101 East Broadway, (hereinafter referred to as the “subject properties”).

WHEREAS, the following bulk deficiency has been identified:

Regulation	Ordinance Section	Required / Permitted	Proposed	Status
Maximum Panel Height Above Roof	§175-7.11.3.N.(2)(a)[1]	Lesser of 5 feet or Parapet Wall Height	None Provided	Non-Conforming⁽¹⁾

(1) In accordance with Chapter §175-7.11 of the City of Hackensack Zoning Ordinance non-residential roof-mounted solar energy systems “in the instance that the solar energy system is to be mounted on a flat roof, panels may be angled to achieve maximum sun exposure but shall not exceed five feet (5’) above the roof height, nor exceed the height of the parapet wall, whichever is less. In the event that the building does not contain a parapet wall, then the Applicant shall provide an appropriate screening to shield the panels from view from

street level”.

WHEREAS, the subject properties are located within the B-3 General Zone; and

WHEREAS, pursuant to Hackensack Zoning Code section 175-7.18, installation of solar energy systems are permitted on the roofs of nonresidential structures with minor site plan approval;

WHEREAS, the aforesaid application was duly made to the Planning Board of the City of Hackensack pursuant to the requirements of the City of Hackensack Code; and

WHEREAS, the Board held a public hearing on November 9, 2022, at which time it heard testimony and considered the subject application; and

WHEREAS, the Applicant is represented by Jason R. Tuvel, Esq., of the law firm of Prime & Tuvel, LLC; and

WHEREAS, the Applicant presented the testimony of Neal Erman, who is employed by GeoScape Solar, and T.J. Ricci, P.E., of Stonefield Engineering Group, in support of the application; and

WHEREAS, the following plans and exhibits were presented to the Board for review:

- Zoning Permit Application consisting of the following forms:
 - Form ‘B’ – Site Plan Checklist;
 - Form ‘D’ – Site Plan / Subdivision / Variance Application (signed);
 - Form ‘F’ – Site Information;
 - Form ‘G’ – Corporate or Partnership / Ownership Disclosure;
 - Form ‘H’ – Variance Request;
 - Form ‘I’ – Support Documents;
 - Form ‘L’ – Land Use Application Fees;
 - Form ‘M’ – Escrow Fee Structure;

- Form ‘P’ – Request for List of Proximity Property Owners;
- Form ‘O’ – Certification By Tax Collector;
- Certified 200 Foot Property Owners List, dated April 26th, 2022;
- Cover Letter prepared by James A. Clancy, P.E., of Arc Design, dated October 19, 2022;
- Engineering Plan Set consisting of six (6) sheets, entitled “Proposed Photo-Voltaic Array- JF Creamer Building 1”, prepared by James A. Clancy, P.E., of Arc Design, dated August 19, 2022;
- Engineering Plan Set consisting of six (6) sheets, entitled “Proposed Photo-Voltaic Array- JF Creamer Building 2”, prepared by James A. Clancy, P.E., of Arc Design, dated March 10, 2022, last revised August 5, 2022;
- Engineering Plan Set consisting of eight (8) sheets, entitled “Proposed Photo-Voltaic Array- JF Creamer Building 3”, prepared by James A. Clancy, P.E., of Arc Design, dated March 10, 2022, last revised August 5, 2022;
- City of Hackensack Fire Department Checklist Plan Review dated October 21, 2022; and
- Completeness/Planning & Engineering Review Memorandum from Gregory J. Polyniak, P.E., P.P., C.M.E. and David Juzmeski, P.E., P.P. of Neglia Engineering Associates, dated October 25, 2022; and

WHEREAS, the Board makes the following findings of fact and conclusions with respect to the within application:

1. The subject property consists of one irregular shaped tax parcel, with frontage on East Broadway and adjacent to the Hackensack River. The properties surrounding the subject property consists of the City of Hackensack Public Works Garage to the north across East Broadway, the Hackensack River to the east and south, and the Bergen County Jail to the west. The property is located within the B-3 General Zone. The subject property is located Block 39.09, Lot 22.02 and is commonly known as 101 East Broadway. The property consists of an approximate total lot area of 304,789.32 square feet (6.997 acres). The property is currently occupied by J. Fletcher Creamer & Son Inc., a construction contracting company with a parking lot for the associated trucks and construction equipment.
2. The Applicant proposes to install roof mounted solar panels on the three (3) existing buildings. The Applicant proposes to install a four hundred and six (406) module, 180.67 kW DC, 160.00 kW AC system on Building 1, a one hundred and forty-four (144) module, 64.08 kW DC, 55.00 kW AC system on Building 2, and a three hundred and eighty-four (384) module, 170.88 kW DC, 150.00 kW AC system on Building 3. No site improvements or building modifications are proposed at this time.
3. The Board incorporates herein as part of its findings of fact the sworn testimony of the Applicant's witness, as set forth in the verbatim transcript of the proceedings conducted at the public meeting of the Board on November 9, 2022.
4. The Board finds that the subject buildings are somewhat isolated, with the surrounding properties being the City of Hackensack Public Works Garage, the

Bergen County Jail and the Hackensack River. Given the height of the building, the sight line from the various streets and sidewalks, the low profile of the panels, and the placement of the panels on the roof, there would be no visibility of the panels from the street.

5. N.J.S.A. 40:55D-70(c)(2) of the MLUL allows variances to be granted “where an application or appeal relating to a specific piece of property the purposes of this act would be advanced by a deviation from the zoning ordinance requirements and the benefits of the deviation would substantially outweigh any detriment”. The negative criteria of N.J.S.A. 40:55D-70(c) require applicants to show that the requested variances will not be substantially detrimental to the public good nor will they substantially impair the intent and purposes of the zone plan and zoning ordinance.
6. Based upon the proofs presented, the Board finds that the requested variance can be granted under the c(2) criteria. Specifically, the Board finds that the use of alternative energy, such as from roof-mounted solar panels, advances the intent and purpose of the Hackensack Master Plan and the Municipal Land Use Law (MLUL) by promoting the safety, health and general welfare of the public. In addition, the sight line from the various streets and sidewalks would not allow someone to see the solar panels from ground level and there would be no visibility of the panels from the street. As such the Board further finds that the project advances the intent and purpose of the Hackensack Master Plan and the Municipal Land Use Law (MLUL) by promoting a desirable visual environment through creative design

techniques. The Board finds that there are no detriments to the granting of the requested variances, and that the above-mentioned benefits, therefore, substantially outweigh the non-existent detriments

7. The Applicant's submission to the Board demonstrates that the installation of the proposed solar panels and related equipment can be constructed without any significant adverse or detrimental impact upon the subject property or the surrounding area or the adjacent roadway system; and that the proposed development will not exacerbate the existing conditions of the roadway and/or intersections. The Board finds that the Applicant has satisfied the negative criteria of N.J.S.A. 40:55D-70(c).
8. The Board finds that the use of alternative energy, such as from roof-mounted solar panels, advances the intent and purpose of the Hackensack Master Plan and the Zoning Code by promoting the safety, health and general welfare of the public.
9. The Applicant's submission to the Board demonstrates that the installation of the proposed solar panels and related equipment can be constructed without any significant adverse or detrimental impact upon the subject property or the surrounding area or the adjacent roadway system; and that the proposed development will not exacerbate the existing conditions of the roadway and/or intersections.
10. The Applicant has demonstrated that the purposes of the Municipal Land Use Law are advanced by the proposed development.

NOW, THEREFORE, BE IT RESOLVED that the application for permission to install

roof mounted solar panels on the three (3) existing buildings. The Applicant proposes to install a four hundred and six (406) module, 180.67 kW DC, 160.00 kW AC system on Building 1, a one hundred and forty-four (144) module, 64.08 kW DC, 55.00 kW AC system on Building 2, and a three hundred and eighty-four (384) module, 170.88 kW DC, 150.00 kW AC system on Building 3, being the premises identified as Block 39.09, Lot 22.02 on the official tax map of the City of Hackensack, County of Bergen, New Jersey, and commonly known as 101 East Broadway, be and hereby is **GRANTED**, subject to the following:

CONDITIONS SPECIFIC TO THE APPLICATION

1. The Applicant shall comply with the recommendations and requirements as set forth in the Completeness/Planning and Engineering review letter prepared by Gregory J. Polyniak, P.E., P.P., C.M.E. and David Juzmeski, P.E., P.P. of Neglia Engineering Associates, dated **October 25, 2022**, and as further stated at the public hearing on November 9, 2022.

2. The Applicant or property owner shall provide the Board Engineer with a roof-top as-built survey illustrating the panel and equipment heights and setbacks to ensure conformance with the plans and testimony at the November 9, 2022 public hearing, and which clearly illustrates the external shut-off (disconnect) switch location. Said survey shall also be filed by the Applicant or property owner with the Fire and Police Departments.

GENERAL CONDITIONS

A. This approval is subject to Applicant obtaining the required construction permit(s) and any other state, County, or city approvals, if required.

B. All fees, costs, bonds and escrows shall be paid when due or becoming due. Any monies are to be paid within twenty (20) days of the said request by the Hackensack Land Use Administrator, or his designee.

C. All representations made by the Applicant or its agents shall be deemed conditions

of this approval and any misrepresentations by Applicant contrary to the representations made before the Board shall be deemed a violation of this approval.

D. The action of the Planning Board in approving this application shall not relieve the Applicant of responsibility for any damages caused by this project, nor does the Planning Board of the City of Hackensack, or its reviewing professionals and agencies, accept any responsibility for design of the proposed improvements or for any damages that may be caused by this project.

E. Applicant shall comply with all applicable federal, state, regional, county and local rules, regulations and requirements. In the event compliance with the requirements of any such governmental entity necessitates modifications to the site plan, Applicant shall submit revised plans to the Zoning Officer and Construction Official for their review and approval. If deemed by either of them to be so substantial or different as to warrant further review by the Planning Board, such modifications shall be referred to the Planning Board for its formal review, and Applicant shall be required to present same in compliance with the notice provisions of the Municipal Land Use Law.

F. This approval is conditioned upon the truthfulness of the testimony of the Applicant and the Applicant's witnesses. In the event that said testimony is found to be willfully false, this approval may be voidable and may be nullified by the Planning Board.

G. Subject to such performance and maintenance bonds as may be required by the Board Engineer and as may be further required by the Hackensack Code.

H. The Applicant shall provide the Zoning Officer with a copy of the approved plans digitally via e-mail.

I. All outstanding property taxes for the Property shall be made current.

J. A copy of the **signed** resolution shall be forwarded to the Applicant, the Board

Engineer and the Building Department of the City of Hackensack; and the secretary shall publish the required notice.

Motion to Approve

Offered by: M. Allegretta
 Second by: R. Contini

	YES	NO	ABSENT	ABSTAIN
F. Garip, Jr.	<u>X</u>	_____	_____	_____
J. Labrosse	<u>X</u>	_____	_____	_____
K. Canestrino	_____	_____	<u>X</u>	_____
J. Chiusolo	<u>X</u>	_____	_____	_____
R. Contini	<u>X</u>	_____	_____	_____
A. Dib	_____	_____	<u>X</u>	_____
J. Martucci	<u>X</u>	_____	_____	_____
M. Allegretta	<u>X</u>	_____	_____	_____
Kimberly Solomon	<u>X</u>	_____	_____	_____
Press O. Iyamu (Alt #1)	_____	_____	<u>X</u>	_____

In Favor of Adoption of the Resolution on November 9, 2022:

Offered by: M. Allegretta
 Second by: R. Contini

	YES	NO	ABSENT	ABSTAIN
F. Garip, Jr.	<u>X</u>	_____	_____	_____
J. Labrosse	<u>X</u>	_____	_____	_____
K. Canestrino	_____	_____	<u>X</u>	_____
J. Chiusolo	<u>X</u>	_____	_____	_____
R. Contini	<u>X</u>	_____	_____	_____
A. Dib	_____	_____	<u>X</u>	_____
J. Martucci	<u>X</u>	_____	_____	_____
M. Allegretta	<u>X</u>	_____	_____	_____
Kimberly Solomon	<u>X</u>	_____	_____	_____
Press O. Iyamu (Alt #1)	_____	_____	<u>X</u>	_____

I certify that the foregoing is a true copy of a resolution adopted by the Planning Board of the City of Hackensack at the meeting of November 9, 2022.

 , Planning Board Secretary