

BOARD OF ZONING APPEALS
CITY OF ALBANY
ALBANY COUNTY, STATE OF NEW YORK

In the Matter of the Application to the
City of Albany Board of Zoning Appeals for
Area Variances

JPMORGAN CHASE BANK, N.A.

Block 2, Lot 38
One Homestead Street
City of Albany, Albany County, NY

**WRITTEN SUBMISSION IN SUPPORT OF APPLICATION FOR
SETBACK AND PARKING VARIANCES**



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I. Preliminary Statement

This statement is submitted on behalf of JPMorgan Chase Bank, N.A. (“Chase” or the “Applicant”) in support of the above-referenced application, which seeks relief from certain zoning requirements imposed under the City of Albany’s Unified Sustainable Development Ordinance (the “USDO”) for the property located at 1 Homestead Street (the “Subject Property”). Specifically, the Applicant is seeking area variances from the Board of Zoning Appeals (the “BZA” or “Board”) to permit:

- (a) A front yard setback along Taft Avenue of 146.7 feet where a 10 foot maximum front yard setback is required; and
- (b) Twenty Three (23) parking spaces where eight (8) parking spaces are required.

For the reasons set forth below, it is respectfully asserted that the relief sought by way of this application should, in all respects, be granted.

II. Statement of Facts

A. The Subject Property

The Subject Property is designated on the City of Albany Tax Maps as Block 2, Lot 38 and is situated in the Mixed-Use, Neighborhood Center (MU-NC) Zoning District where business services including banks are permitted as-of-right. The Subject Property is unique in that it has three (3) street frontages: Homestead Street, Western Avenue and Taft Avenue.

B. Land Use Approvals

Chase is seeking site plan approval to permit the development of a 3,028 square foot bank and related site improvements at the Subject Property.

C. Description of Variance Application to the ZBA

Set forth below is a chart of the area variances being sought from the BZA which includes (a) the relevant USDO section; (b) a description of the nature of the applicable USDO section; (c) applicable USDO requirements; and (d) the proposed variance relief being sought:

AREA VARIANCES			
USDO SECTION	DESCRIPTION	REQUIRED/ PERMITTED	PROPOSED
§ 375-2(D)(2)(c)	Maximum Front Yard Setback	10'	146.7 (Taft Ave.)
§ 375-4E(2).(b)	Required Off-Street Parking;	8 (surface parking shall not exceed 115% of the minimum required - 1 per 400 sf NLA)	23

III. Applicable Area Variance Standards

An area variance is “authorization by [a] zoning board of appeals for the use of land in a manner which is not allowed by the dimensional or physical requirements of the applicable zoning regulations.” N.Y. General City Law § 81-b(1)(b).

The standard applied to area variance applications is statutorily prescribed. This statutory standard alone is to be used in assessing an area variance request, and no other factors are to be considered. Caspian Realty, Inc. v. Zoning Bd. of Appeals of Town of Greenburgh, 68 A.D.3d 62, 886 N.Y.S.2d 442, (2d Dep’t 2009) (citing Cohen v. Bd. of Appeals of Vill. of Saddle Rock, 100 N.Y.2d 395, 764 N.Y.S.2d 64 (2003)).

Under this standard, a zoning board of appeals, such as this Board, shall consider “the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant.” N.Y. General City Law § 81-b(4)(b). Five (5) factors are to guide a board in this balancing of interests, which include:

- (1) whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance;
- (2) whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance;
- (3) whether the requested area variance is substantial;

- (4) whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and
- (5) whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the board of appeals, but shall not necessarily preclude the granting of the area variance.

N.Y. General City Law § 81-b(4)(b)(i) through (v).

IV. The Instant Application for Area Variances Should Be Granted

An application of the above-stated standards to this application clearly shows that the requested relief should be granted. This relief will benefit the Applicant by allowing the Subject Property to be developed without creating a detrimental impact to the surrounding area. If granted, the requested variances will allow for a beneficial use of the Subject Property and will not adversely impact the health, safety and welfare of the neighborhood or community.

A. Issuance of the Requested Relief Will Not Produce an Undesirable Change in the Character of the Neighborhood

Key to the review of area variances is the impact the requested relief will have upon the neighborhood and nearby properties. If the variances sought yield a use that is in harmony with the surrounding neighborhood, a zoning board of appeals will be hard pressed to find that the requested relief should not issue. See e.g. Buckley v. Amityville Village Clerk, 264 A.D.2d 732, 694 N.Y.S.2d 739 (2d Dep't 1999); Cacsire v. City of White Plains Zoning Bd. of Appeals, 87 A.D.3d 1135, 930 N.Y.S.2d 54 (2d Dep't 2011).

Here, the relief sought, if granted, will result in a use of the Subject Property which is consistent with the character of the area in which it lies; i.e. a mixed use neighborhood zoning district comprised of a variety of commercial and other uses primarily facing and situated toward Western Avenue and which contain surface parking areas designed to adequately meet the needs of those uses.



The front yard setback variance proposed along Taft Avenue will not produce an undesirable change in the character of the neighborhood because the majority of uses along Western Avenue are situated in close proximity to Western Avenue, which is consistent with the proposed development. In order to meet the ten (10) foot setback requirement for both Homestead Avenue and Western Avenue, the bank must be situated further away from Taft Avenue. In addition, the bank is situated away from the residential uses south of the property and toward Western Avenue in keeping with other commercial uses in the area. For these

reasons, the setback variance will not have a detrimental impact on the neighborhood or community.

Likewise, the parking variance will not produce an undesirable change in the character of the neighborhood and is in keeping with the amount of surface parking provided for other banks within the general vicinity of the Subject Property. For example, there is a Key Bank located a few blocks away from the Subject Property along Western Avenue which has approximately twenty-five (25) parking spaces and shown in the below image from Google Earth.



Likewise, the Bank of America and Citizens Bank uses on Western Avenue, as shown in the images below, also appear to contain at least twenty parking spaces each.



In addition, there is a CAP COM Federal Credit Union that was built approximately two (2) years ago approximately a half mile east of the Subject Property on Western Ave that has approximately thirty (30) parking stalls with a double drive thru.



Based upon the above-referenced examples in the general vicinity of the Subject Property, we believe that the amount of parking spaces proposed is in keeping with other banks in the area and will not produce an undesirable change in the character of the neighborhood.

B. The Benefit Sought Cannot Be Achieved By Other Means

It would not be feasible for the Applicant to pursue alternatives other than that proposed since the variances are the minimum necessary to achieve the overall workability of the site. With respect to the setback variance, Chase considered alternative layouts for the bank but in order to comply with the ten foot front yard setbacks for Western Avenue and Homestead Street and to provide an appropriate streetscape along Western Avenue by providing parking at the rear of the site, it was necessary for the proposed bank to be situated further away from Taft Avenue thereby necessitating the setback variance.

Likewise, with respect to the parking variance, the benefit sought by Chase from permitting a greater amount of parking than required cannot be achieved by other means that are feasible for Chase to pursue. The number of parking spaces proposed is specifically designed to meet the operational needs of this branch and was derived from a number of important considerations. First, the amount of parking being provided is specifically targeted to meet the intended needs of the market. The Capital Region Market in Albany and Schenectady is a new market for Chase. Chase intends to open approximately eight locations in this new market and the success of these branches is critical and having sufficient parking is a critical component of that success.

Second, Chase is specifically focusing on this location not just to serve the needs of the local clientele in the area but also to serve the student population at the University of Albany so the parking has been designed to address the anticipated volume of accounts/ATM trips from students during the academic year.

Third, all new freestanding branches (as opposed to consolidations, retrofits, inline branches, etc.) for Chase are designed to be approximately 3,000-4,000 square feet and to have approximately twenty two (22) to thirty five (35) parking spaces, depending upon the layout of the floorplan, because this model has worked consistently and successfully for Chase for many years.¹ The amount of parking proposed is directly correlated to the amount of Customer Management Service (CMS) space, client booths and other space as shown on the proposed floor plan and anticipated ATM and transactional volume based on the demographics of the

¹ Chase did not consider utilizing some of the overflow parking at the church lot adjacent to the Subject Property because it is not a feasible alternative. As a practice, Chase does not want its elderly customers and customers with small children having to walk a long distance in order to enter the bank. Chase wants its parking to be easily accessible and to be located as close to the bank entrances as possible.

surrounding area². If requested, Chase can provide examples at the public hearing of other recently approved/developed Chase locations in New York and other surrounding states to show that the Chase model proposed here is consistent with Chase's policy and practice.

Finally, having the amount of parking currently proposed at this location is even more critical in light of the fact that this Chase branch will not have a drive up ATM window or remote drive-up ATM (which was removed from the proposed site plan upon a determination that it is not permitted in this zone) because everyone coming to the bank will need to park to utilize the ATM or other bank services. For these reasons, the benefits sought by Chase for having twenty three (23) parking spaces cannot be achieved by some other method feasible for Chase to pursue.

C. Substantiality of the Relief Sought

Although the variance relief needed from the front yard setback and parking requirements may appear substantial based solely on the size of the setback variance and the number of parking spaces proposed, neither variance is substantial when viewed in light of the unique attributes of the property and the special factors relating to proposed operation of the bank.

With respect to the setback variance, it is noted that Chase complies with the setbacks for both Western Avenue and Homestead Street. The magnitude of the setback variance is created entirely by the need to conform to the setback requirements for the Subject property's other two (2) street frontages and the unique situation of having three (3) street frontages. Rather than requiring three front yard setback variances to locate the bank building closer to the center of the property, Chase instead determined it was more appropriate to fully comply with the Homestead

² This is proprietary information held by Chase.

Street and Western Avenue setbacks and situate the building close to Western Avenue in keeping with the character of the neighborhood and surrounding area. As such, the setback variance being sought is not substantial but practical in light of the circumstances described above.

The parking variance is also not substantial when viewed in light of the multitude of different users this bank is intended to serve (retail banking for local clientele, retail banking for student customers from the University of Albany, corporate banking services, etc.). As mentioned above, it is Chase's policy and practice to provide approximately 22 to 35 parking spaces for freestanding banks that are approximately 3,000 to 4,000 square feet in size based upon the programming and operational needs associated with the bank. In addition, because there is no opportunity for customers of the bank to utilize a drive-up window or remote drive-up ATM, all of the customers coming to the bank will need to park to utilize the banks services so sufficient parking is essential.

Chase prides itself on providing enough parking so that its customers always have an obvious parking choice whether they are coming for a quick stop at the ATM or to open an account or to discuss their other banking or personal finance needs. Most of the traffic coming to the bank is pass by traffic as opposed to destination traffic so if the parking situation is not convenient, the customer will simply go elsewhere. Indeed, the brick & mortar presence of the bank coupled with the availability of sufficient parking has been cited by Chase as the number one reason people open accounts which is why Chase continues to open new banks and why it continues to provide parking based on its own time-tested formula for success.

D. Issuance of the Requested Variances Will Not Impact Physical and Environmental Conditions

As set forth above, the proposed use of the Subject Property is situated within the MU-NC Zoning District along Western Avenue and near a variety of other commercial uses including banks, restaurants and retail stores along with a variety of other educational, residential and religious uses. The proposed variances will be in keeping with the surrounding commercial/mixed-use community and thus, will not impact the physical and environmental conditions in the neighborhood or district.

E. The Alleged Difficulty, While Self-Created, Does Not Preclude The Granting of These Variances

The Applicant seeks to improve the Subject Property. In a sincere effort to accommodate the requirements of the Zoning Code, the variances proposed represent the minimum necessary to achieve the overall functionality of the site. It is important to point out that with the exception of the area variances being sought, the proposed development complies with USDO in all other respects. Moreover, as set forth above, the proposed variances sought are minimal in nature and scope and the extent of relief being sought from the Board of Zoning Appeals has already been reduced by Chase upon feedback received from the City's professionals. Thus, to the extent that the difficulty alleged is self-created, it is outweighed by the benefits this project will bring to the surrounding community and therefore, should not preclude the granting of these variances.

VI. Conclusion


For the reasons set forth above, Chase respectfully asserts that this Board grant Chase the area variances requested above.

Dated: New York, New York
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Respectfully submitted,

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By:



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