

168-98-BZ

APPLICANT – Robert J. Stahl for Herbert D. Freeman, 238 Street Holding, LLC, owner.

SUBJECT – Application April 10, 2015 – Extension of Term (§11-411) of a previously approved variance which permitted a parking lot for more than five motor vehicles (Use Group 8) which expired on March 23, 2009; Waiver of the Rules. R6/R4A zoning district.

PREMISES AFFECTED – 3050 Bailey Avenue, Block 3261, Lot 12, Borough of Bronx.

COMMUNITY BOARD #8BX

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice-Chair Chanda, Commissioner Ottley-Brown, Commissioner Sheta and Commissioner Scibetta.....5

Negative:0

THE RESOLUTION –

WHEREAS, this is an application for a waiver of the Board’s Rules of Practice and Procedure and an extension of term of a variance, previously granted by the Board; and

WHEREAS, a public hearing was held on this application on September 13, 2016, after due notice by publication in *The City Record*, with continued hearings on January 31, 2017, March 28, 2017, and January 30, 2018, and then to decision on May 1, 2018; and

WHEREAS, Chair Perlmutter, Vice-Chair Chanda, Commissioner Ottley-Brown, former Vice-Chair Hinkson and former Commissioner Montanez performed inspections of the site and surrounding neighborhood; and

WHEREAS, Community Board 8, Bronx, recommends approval of this application; and

WHEREAS, the subject site is located on the east side of Bailey Avenue, between Albany Crescent, Heath Avenue and Summit Place, partially in an R4A zoning district and partially in an R6 zoning district, in the Bronx; and

WHEREAS, the site has approximately 75 feet of frontage along Bailey Avenue, 65 feet of frontage along Heath Avenue, 10,544 square feet of lot area and is occupied by a parking lot; and

WHEREAS, the Board has exercised jurisdiction over the subject site since March 26, 1962, when, under BSA Calendar Number 1966-61-BZ, the Board granted a variance to permit the extension of an existing multiple dwelling accessory parking lot for more than five motor vehicles for a term of ten (10) years, expiring March 26, 1973, on condition that a hedge 3 feet wide be planted along the Heath Avenue front just inside the fence, that the lot be paved with clean cinders or gravel treated with a binder and rolled for proper drainage, that proper bumpers be provided around the perimeter where cars are to be parked, that no signs be used except as called for by the Department of Licenses, that if any lighting is provided it be directed to the interior of the lot away from adjacent streets and

properties, that if any retaining walls are required in connection with the subject site they be constructed by the owner of the subject site at the owner’s expense to the satisfaction of the Department of Buildings and that a certificate of occupancy be obtained within one (1) year, by March 26, 1963; and

WHEREAS, on April 18, 1978, under BSA Calendar Number 1966-61-BZ, the Board amended the variance so that the parking lot for 35 passenger motor vehicles accessory to the multiple dwellings on Lots 15 and 17 be changed to a public parking lot for a term of six (6) months, expiring October 18, 1978, on condition that a full width sidewalk be installed along Bailey Avenue frontage, that upon completion of the work required the applicant submit to the Board new photographs showing that the work has been completed further and that based upon the approval of this submission the Board will extend the term of the variance for an additional five (5) years; and

WHEREAS, on July 30, 1985, under BSA Calendar Number 1966-61-BZ, the Board granted an extension of term of five (5) years, expiring December 5, 1988, on condition that the parking lot and sidewalks be maintained clean and free of weeds at all times, that the fences on Heath Avenue and Bailey Avenue be 50 percent opaque and that a new certificate of occupancy be obtained within one (1) year, by July 30, 1986; and

WHEREAS, on March 23, 1999, under the subject calendar number, the Board granted an extension of term of ten (10) years, expiring March 23, 2009, on condition that fencing and screening be provided and maintained in accordance with the Board-approved plans, that landscaping be provided and maintained in accordance with the Board-approved plans, that all lighting be positioned down and away from nearby residential uses, that the subject site be maintained clean and free of graffiti, that the above conditions appear on the certificate of occupancy and that a certificate of occupancy be obtained within one (1) year, by March 23, 2000; and

WHEREAS, the term having expired, the applicant now seeks a waiver of the Board’s Rules of Practice and Procedure to allow the late filing of this application and an extension of term; and

WHEREAS, the applicant submits that the use has been continuous since expiration and that substantial prejudice would result without a waiver of the Board’s Rules of Practice and Procedure; and

WHEREAS, in response to questions from the Board at hearing, the applicant provided evidence of improved site conditions, including replaced fencing, perimeter landscaping and plantings, and demonstrated that lighting is directed away from residential uses; and

WHEREAS, the applicant also submitted an operational plan detailing the mission, hours of operation, staffing, fee structure and maintenance plan for the subject site; and

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WHEREAS, the applicant provided evidence that parking spaces had been repainted with parking curbs installed and that the sidewalk had been repaired; and

WHEREAS, based upon its review of the record, the Board has determined that the requested waiver of the Board's Rules of Practice and Procedure and extension of term are appropriate with certain conditions as set forth below.

Therefore it is Resolved, that the Board of Standards and Appeals does hereby *wave* the Rules of Practice and Procedure and *reopen* and *amend* the resolution, dated March 23, 1999, so that as amended this portion of the resolution shall read: "to *permit* an extension of term of ten (10) years, expiring May 1, 2028; *on condition* that all work and site conditions shall conform to drawings filed with this application marked "Received April 25, 2018"- Five (5) sheets; and *on further condition*:

THAT there shall be monthly parking only with no transient parking permitted;

THAT the subject site shall be maintained clean and free of debris and graffiti, including the area along Heath Avenue;

THAT landscaping, planting, surface paving and striping shall be maintained and replaced as necessary in accordance with the Board-approved plans;

THAT fencing and screening shall be provided and maintained in accordance with the Board-approved plans;

THAT all lighting shall be positioned down and away from nearby residential uses;

THAT the above conditions shall appear on the certificate of occupancy;

THAT a certificate of occupancy shall be obtained within four (4) years, by May 1, 2022;

THAT all conditions from prior resolutions not specifically waived by the Board remain in effect;

THAT this approval is limited to the relief granted by the Board in response to objections cited and filed by the Department of Buildings;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plans or configurations not related to the relief granted."

Adopted by the Board of Standards and Appeals, May 1, 2018.

A true copy of resolution adopted by the Board of Standards and Appeals, May 1, 2018.

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Copies Sent

To Applicant

Fire Com'r.

Borough Com'r.

