

169-98-BZ

APPLICANT – Robert J. Stahl for Herbert D. Freeman, Albany Crescent Holding, LLC, owner.

SUBJECT – Application April 10, 2015 – Extension of Term (§11-411) of a previously approved variance permitting the operation of an Automotive Service Station (UG 16B) which expired on July 20, 2009; Amendment (§11-413) to permit a change of use to Automotive Repair Facility (UG 16B); Waiver of the Rules. C2-3/R6 zoning district.

PREMISES AFFECTED – 3141 Bailey Avenue, Block 3267, Lot 38, 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 May 16, 2017, August 22, 2017, November 14, 2017, January 30, 2018, And March 27, 2018, and then to decision on June 26, 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 Board has exercised jurisdiction over the subject site since June 23, 1953, when, under BSA Calendar Number 375-33-BZ, the Board granted a variance to permit a gasoline service station for a term of fifteen (15) years, expiring June 23, 1968, on condition that all buildings and uses on the subject site be removed and the site be leveled substantially to the grade of Bailey Avenue and be arranged and constructed and designed as indicated on the Board-approved plans, including the planting areas, as indicated, that the walls with steel pickets be erected on the lot lines or off the lot lines, as indicated on such revised plan with masonry piers, that the accessory building have no cellar and in all other respects comply with all requirements of the Building Code therefor and be faced with face brick on all sides and of a design with gable roof as shown, that the number of gasoline storage tanks no exceed six 550-gallon tanks, that the pumps be of an approved low type and erected not nearer than 10 feet to the street building line, that curb

cuts be restricted to two curb cuts to Bailey Avenue only, one 40 feet in width and one 30 feet in width, that the subject site where not occupied by accessory building, pumps and planting be paved with concrete or asphaltic pavement, that signs be restricted to a permanent sign attached to the front of the accessory building facing Bailey Avenue and to the illuminated globes of the pumps, excluding all roof signs and all temporary signs but permitting the erection within the building line near the intersection of West 233rd Street and Bailey Avenue of one post standard for supporting a sign which may be illuminated and permitting such sign to extend beyond the building line for a distance of not more than 4 feet, that the intersection within the building line there be erected a block of concrete not less than 12 inches in height and extending for a distance of not less than 5 feet along either building line, that a similar block of concrete be constructed at the southerly end where shown, that such portable fire-fighting appliances be maintained as the Fire Commissioner requires and that before plans are filed with the borough superintendent, complete working drawings including a detailed design of the building be submitted for further consideration of the Board within six (6) months, by December 23, 1953; and

WHEREAS, on or about August 26, 1953, under BSA Calendar Number 375-33-BZ, the Board approved working drawings as being in substantial compliance with the requirements of the resolution; and

WHEREAS, on July 16, 1953, under BSA Calendar Number 375-33-BZ, the Board granted an extension of term of ten (10) years, expiring June 23, 1978, on condition that planting along Albany Crescent be restored and maintained, that trees be planted along the Albany Crescent frontage in accordance with the rules and regulations of the Department of Parks and that a new certificate of occupancy be obtained; and

WHEREAS, on November 21, 1978, under BSA Calendar Number 375-33-BZ, the Board granted an extension of term of ten (10) years, expiring June 23, 1988, on condition that a full-width sidewalk be installed along the West 233rd Street and Albany Crescent frontages, that the sidewalk be repaired where required, that there be no parking of cars on the sidewalk area and that a new certificate of occupancy be obtained within one (1) year, by November 21, 1979; and

WHEREAS, on July 20, 1999, under the subject calendar number, the Board granted a reinstatement of the variance for a term of ten (10) years, expiring July 20, 2009, on condition that signage be provided in accordance with the Board-approved plans, that the hours of operation be limited to 8:00 a.m. to 8:00 p.m. with no repair work on Sunday, that fencing and screening be provided in accordance with the Board-approved plans, that lighting be provided in accordance with the Board-approved plans and be positioned down and away from adjacent residential uses and that the

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above conditions appear on the certificate of occupancy; and

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

WHEREAS, by letter dated March 23, 2018, the Fire Department states that it has no objection to this application; and

WHEREAS, in response to questions from the Board, the applicant submitted evidence of spruced-up plantings, resurfaced paving and newly installed 8-foot-high fencing with slats and clarified the plans with respect to trees, the gate and lighting; and

WHEREAS, because of the state of the subject site witnessed by the Board, a term of two (2) years is appropriate to ensure continued compliance with the Board's conditions; 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 July 20, 1999, so that as amended this portion of the resolution shall read: "to *permit* an extension of term of two (2) years, expiring June 26, 2020; *on condition* that all work and site conditions shall conform to drawings filed with this application marked "Received February 14, 2018"-Nine (9)sheets; and *on further condition:*

THAT the term of this grant shall be limited to two (2) years, expiring June 26, 2020;

THAT the curbing around the planting area shall be made fixed, permanent and durable;

THAT the landscaping, paving and fencing shall be maintained and replaced as necessary to maintain an aesthetically pleasing appearance;

THAT signage shall comply with C1 zoning district regulations and in accordance with the Board-approved plans;

THAT the hours of operation shall be limited to 8:00 a.m. to 8:00 p.m. with no repair work on Sunday;

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

THAT lighting shall be provided in accordance with the Board-approved plans and be positioned down and away from adjacent residential uses;

THAT a full-width sidewalk be maintained along

the West 233rd Street and Albany Crescent frontages;

THAT the sidewalk be repaired where required;

THAT there shall be no parking of cars on the sidewalk area;

THAT planting along Albany Crescent shall maintained;

THAT trees shall be maintained along the Albany Crescent frontage in accordance with the rules and regulations of the Department of Parks;

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

THAT a certificate of occupancy shall be obtained within four (4) years, by June 26, 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, June 26, 2018.

A true copy of resolution adopted by the Board of Standards and Appeals, June 26, 2018.

Printed in Bulletin No. 27, Vol. 103.

Copies Sent

To Applicant

Fire Com'r.

Borough Com'r.

