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BOARD OF STANDARDS AND APPEALS

MEETING OF: May 6, 2024
CALENDAR NO.: 175-10-BZ
PREMISES: 3400 Baychester Avenue, Bronx
Block 5257, Lot 47

ACTION OF BOARD — Application granted on condition.

THE VOTE —

Affirmative: Chair Chanda, Vice-Chair Scibetta,
Commissioner Ottley-Brown, Commissioner Sheta, and
Commissioner Yoon.....5
Negative:.....0

THE RESOLUTION —

This is an application for a waiver of the Board’s Rules of Practice and Procedures (the “Board’s Rules”), an extension of term of a variance, under Z.R. § 11-411, that permitted the use of the Premises as an automotive service station with repair shop and accessory convenience store and expired on March 29, 2021, and an extension of time to obtain a certificate of occupancy, which expired on July 13, 2013.

A public hearing was held on this application on July 24, 2023, after due notice by publication in *The City Record*, with a continued hearing on December 11, 2023, and then to decision on May 6, 2024. Community Board 12, Bronx, recommends approval of this application and states that the Premises has been recently renovated and kept free of debris. The Board received a letter in objection to the application raising concerns over the compatibility of the subject use in the residence district and the potential for negative environmental impacts.

The Premises are located on the northeast corner of Baychester Avenue and Tillotson Avenue, within an R4 zoning district, in the Bronx. With approximately 104 feet of frontage along Baychester Avenue, 100 feet of frontage along Tillotson Avenue, and 13,615 square feet of lot area, the Premises are occupied by an existing automotive service station with one-story repair shop (approximately 1,062 square feet of floor area) and accessory convenience store (255 square feet of sales floor area).

The Board has exercised jurisdiction over the Premises since December 18, 1956, when, under BSA Cal. No. 492-56-BZ, the Board

granted a variance to permit the construction and maintenance of a gasoline service station with minor auto repairs, office and sales, car washing and lubritorium in a residence and retail use district, for a term of 15 years.

Subsequently, the grant has been amended and the term extended at various times, until its expiration on December 18, 2001.

On March 29, 2011, under the subject calendar number, the Board granted a reinstatement of the expired variance, under Z.R. § 11-411, to permit the use of the Premises as an automobile service station with accessory uses for a term of ten years, to expire March 29, 2021, on condition that the Premises be kept free of debris and graffiti, and a new certificate of occupancy be obtained within one year, by March 29, 2012.

On July 10, 2012, under the subject calendar number, the Board granted an extension of time to obtain a certificate of occupancy for one year, by July 10, 2013.

The term of the variance and the time to have obtained a certificate of occupancy having expired, the applicant now seeks an extension of time. Because this application was filed less than two years since the expiration of the term, and more than 30 days since the expiration of time to obtain a certificate of occupancy, the applicant requests a waiver, pursuant to § 1-14.2 of the Board's Rules of Practice and Procedures (the Board's Rules), of §§ 1-07.3(b)(2) and 1-07.3(d)(2), of the Board's Rules to permit the filing of this application. In accordance with the Board's Rules, the applicant provided photographs to demonstrate the continuous use of the Premises from the expiration of term through the filing of the application and states that substantial prejudice would result absent a waiver of the Board's Rules.

The applicant represents that no substantial changes have occurred to the Premises since the Board's last approval nor are any changes proposed. The Premises continues to operate as an automobile service station with gasoline service open 24 hours per day; automotive repair from 8:30 a.m. to 6:00 p.m., Monday through Friday, 9:00 a.m. to 2:00 p.m., Saturday, and closed on Sundays. The Premises maintain four pump islands, seven parking stalls, and an area for eight vehicles awaiting service.

Over the course of hearings, in response to Board comments, the applicant revised the plans to demonstrate a newly installed PVC trash enclosure with bollards, and relocation of the air tower and removal of the vacuum station, and photographs showing an improved sidewalk.

Based upon its review of the record, the Board has determined that the extension of term and extension of time to obtain a certificate of occupancy is appropriate with certain conditions as set forth below.

Therefore, it is Resolved, that the Board of Standards and Appeals does hereby *wave* its Rules of Practice and Procedures and *amends* the resolution, dated March 29, 2011, as amended through July 10, 2012,

so that as amended this portion of the resolution shall read: “to extend the term of the variance for ten years, to expire on March 29, 2031, and the time to obtain a certificate of occupancy for 18 months, to expire on November 6, 2025, *on condition* that all work and site conditions shall substantially conform to drawings filed with this application marked “Approved Plans” — Six (6) sheets, received April 19, 2024; and *on further condition*:

THAT the term of the variance shall expire on March 29, 2031;

THAT the Premises shall be maintained free of debris and graffiti;

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

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

THAT a certificate of occupancy, also indicating this approval and calendar numbers (BSA Cal. No. 175-10-BZ), shall be obtained within 18 months, by November 6, 2025;

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;

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 6, 2024.

CERTIFICATION

**This copy of the resolution
dated May 6, 2024
is hereby filed by the
Board of Standards and Appeals
on July 9, 2024.**



**Carlo Costanza
Executive Director**