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BOARD OF STANDARDS AND APPEALS

MEETING OF: **July 13, 2026**
CALENDAR NO.: **2026-08-BZ**
PREMISES: **2010 Bartow Avenue, Bronx**
 Block 5141, Lots 1100 & 1109

ACTION OF BOARD — Application granted on condition.

THE VOTE —
Affirmative: Chair Chanda, Vice-Chair Scibetta,
 Commissioner Sheta, and Commissioner Yoon.....4
Negative:.....0
Absent: Commissioner Ottley-Brown.....1

THE RESOLUTION —

The decision of the Department of Buildings (“DOB”), dated February 19, 2026, acting on New Building Application No. X01328773-I1, reads, in pertinent part:
Proposed Use Group VI eating and drinking establishment with accessory drive thru, in a C4-3 zoning district requires a special permit pursuant to ZR section 73-311 contrary to ZR 32-00 and must be referred back to the Board of Standards and Appeals.

I. The Request

This is an application under Z.R. §§ 73-311 and 73-03 to permit, in a C4-3 zoning district, the operation of a drive-through facility accessory to a proposed, one-story, Use Group (“UG”) VI, eating and drinking establishment (“McDonald’s”), contrary to Z.R. § 32-15.
A public hearing was held on this application on June 2, 2026, after due notice by publication in *The City Record*, and then to decision on July 13, 2026.
Community Board 10, Bronx, recommends approval of this application.

II. Location

The Premises are comprised of existing Lots 1100 and 1109, which the applicant plan to merge into one lot (Lot 1100), located on the southeast side of Bartow Avenue, between Baychester Avenue and Asch Loop, within a C4-3 zoning district, in the Bronx. Lot 1100 has approximately 147 feet of frontage along Bartow Avenue, 125 feet of depth, and 19,144 square feet of lot area. Lot 1109 has approximately 30 feet of frontage along Bartow Avenue, a depth of 100 feet, and 3,000

square feet of lot area. The Premises contain approximately 22,1444 square feet of total lot area and are currently occupied by a one-story, eating and drinking establishment operated as a McDonald's.

III. Proposal

The applicant seeks a special permit for an accessory drive-through facility operating in conjunction with an as-of-right, UG VI eating and drinking establishment within a C4-3 zoning district. The applicant submitted plans illustrating a proposed, 3,983 square-foot, one-story eating and drinking establishment with an accessory drive through and 10 parking spaces. The plans also demonstrate that the site would provide one, modified curb cut on Bartow Avenue with access to the site to be maintained via a full-movement driveway serving as the fourth leg of the intersection of Bartow Avenue and Asch Loop, and the existing cross-access with the lot to the east (Block 5141, Lot 1110) would be maintained.

IV. Findings

Z.R. § 73-311 states, in pertinent part:

In C1 through C7 Districts, the Board of Standards and Appeals may permit modification to the applicable enclosure regulations to allow accessory drive-through facilities serving a use listed under Use Group VI, as set forth in Section 32-16 (Use Group VI – Retail and Services), provided that the findings are met...

As a threshold matter, the Board notes that this site is within the boundaries of a designated area—the subject C4-3 commercial zoning district—in which the subject special permit is available. The Board also states that its determination is subject to and guided by Z.R. § 73-03, which dictates, in relevant part, that, under the conditions and safeguards imposed, “the hazards or disadvantages to the community at large of such special permit...at the particular site are outweighed by the advantages to be derived by the community by the grant of such special permit,” and that “the adverse effect, if any, on the privacy, quiet, light and air in the neighborhood of such special permit...will be minimized by appropriate conditions governing [including but not limited to] location of the site, design and method of operation.”

A.

First, the applicant must demonstrate that the drive-through facility contains reservoir space within the zoning lot: (1) for not less than 10 automobiles, where serving an eating or drinking establishment; or (2) at a sufficient capacity for waiting automobiles, at maximum expected operation, where serving all other uses. Here, the applicant submitted proposed plans demonstrating that the proposed drive-through facility contains reservoir space for 11

automobiles in addition to 10) parking spaces provided on site for the entire zoning lot. Accordingly, the Board finds that the subject drive-through facility contains sufficient reservoir space.

B.

Next, the applicant represents that the drive-through facility would not create or contribute to serious traffic congestion and would not unduly inhibit surface traffic and pedestrian flow. In support, the applicant submits that adequate pedestrian protective measures/controls are present within the Right Of Way (i.e.: crossing signals, pedestrian ramps, striped crosswalks, etc.), and the sidewalks are sufficiently wide to prevent congestion and/ or conflicts with site operations. The applicant also points out that the existing use on the property has an established customer base at the existing restaurant location with drive-through service, and it is anticipated that the eating and drinking establishment would be frequented by a similar customer base that currently visits the existing site.

Furthermore, the applicant states that the driveway access is being improved by providing a modified a full-movement driveway serving as the fourth leg of the intersection of Bartow Avenue and Asch Loop. Moreover, the plans show that the proposed drive-through lane would provide queueing space for 11 vehicles to queue, and, therefore, the applicant does not anticipate extended drive-through queueing. Additionally, the applicant also stresses that proposed site layout has been updated from the previous layout and has been designed to reduce potential conflict points and to enhance vehicular maneuverability throughout the site. Accordingly, the Board finds that the subject drive-through facility will cause minimal interference with traffic flow in the immediate vicinity.

C.

Furthermore, the applicant contends that the character of the subject commercial street frontage within 500 feet of the Premises reflects substantial orientation toward the motor vehicle, based upon the level of motor vehicle generation attributable to the existing uses contained within the surrounding areas. Specifically, the Premises are located on Bartow Avenue in the Bronx on a block that is zoned C4-3 zoning district only and is surrounded by commercial uses along Bartow Avenue that are compatible with the existing/proposed use. Additionally, the applicant notes that the Premises adjoin other drive-through facilities including another UG VI, eating and drinking establishment and a bank. Accordingly, the Board finds that the character of the C4-3 zoning district street frontage within 500 feet of the subject Premises reflects substantial orientation toward the motor vehicle, based upon the level of motor vehicle generation attributable to the existing uses contained within such area and to the subject use.

D.

Moreover, the applicant claims that the drive-through facility would not have an undue adverse impact on residences within the immediate vicinity of the subject Premises, considering factors including noise, lighting, privacy, and air quality. First, the applicant restates that the subject block is zoned commercial, and the buildings directly adjacent are a mixed-use building with ground floor commercial use and a not-for-profit community facility. The applicant also submits that the proposed site would be expected to generate a similar number of trips as the existing site as the site is a raze and rebuild of the existing eating and drinking establishment. Further, the applicant claims that the project does not introduce new sensitive receptors (e.g., operable windows, air intakes, or residential uses) within 200 feet of atypical sources of vehicular emissions like highways or bridges and does not involve the creation of a covered roadway or other physical changes that would exacerbate traffic congestion on existing roadways. Because the project would neither generate nor divert peak hour vehicle trips—passenger or heavy-duty diesel vehicles (“HDDVs”)—that approach or exceed the City Environmental Quality Review (“CEQR”) thresholds (e.g., 170 auto trips in outer boroughs or 23 HDDVs on arterials), the applicant states that no detailed mobile source analysis is required, as no impacts are anticipated, pursuant to the guidelines of the CEQR Technical Manual.

As explained in the applicant’s Travel Demand Forecasting (“TDF”) Memo, based on the Level 1 screening analyses, the proposed development would not exceed the 2021 CEQR Technical Manual Level 1 thresholds, and as such, Level 2 trip assignments and detailed transportation analyses would not be required to identify potentially significant adverse impacts as a result of the proposed eating and drinking establishment with drive-through service. Additionally, the memo finds that traffic conditions are expected to remain consistent with existing baseline condition and impacts on air quality for residences are not anticipated as a result of the continued operation of the drive-through facility. Accordingly, after considering factors including noise, lighting, privacy, and air quality place, the Board finds that the proposed drive-through would not have an undue adverse impact on residences within the immediate vicinity of the subject Premises.

E.

The applicant further declares that there would be adequate buffering between the drive-through facility and adjacent residential uses. In support, the applicant reiterates that the proposed drive-through would not be adjacent to any residential uses; is zoned commercial; and is surrounded by commercial uses. Accordingly, the

Board finds that there will be adequate buffering between the drive-through facility and adjacent residential uses.

V. Board Review

At hearing, the Board raised concerns about conditions at the site including trash and rodent management, hours of operation, and signage. In response, the applicant submitted an operational memo, which states, in pertinent part:

As indicated on the proposed plans, the Premises will be operated operate 24 hours, which is the same as the current location. The main lobby will be closed between 12:00 a.m. and 6:00 a.m., and only the pickup window and drive-through windows will remain open. As indicated on the TDF memo, weekday morning peak hours occur from 7:45 a.m. to 8:45 a.m.; the weekday midday peak hour occurs from 12:30 a.m. to 1:30 p.m.; the weekday evening peak hour occurs from 4:00 p.m. to 5:00 p.m.; and the Saturday midday peak hour occurs from 12:30 p.m. to 1:30 p.m. On average, the eating and drinking establishment can see as many as 324 customers daily, spread out between 5:00 a.m. and 9:00 p.m. Waste Management will pick up trash Tuesday through Saturday after 9:00 p.m. Deliveries will be made during off-peak times to minimize disruption to customers and to traffic in the vicinity. Trash is proposed to be in a trash enclosure located on the western side of the building with direct access from the back of the house. The facilities team will work with the haulers to ensure smooth operation is maintained, which is the standard for all stores in NYC. The tenant will take responsibility to control pests in and around the building including the trash enclosure. Responsibility includes cleaning, setting and monitoring traps along with paying for professional extermination services monthly (as a preventive measure). The Premises will comply with C4 zoning district signage regulations.

VI. Environmental Review

The project is classified as an Unlisted action pursuant to Section 617.2 of 6 NYCRR. The Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final EAS CEQR No. 26BSA027X, dated July 13, 2026. The EAS documents that the project as proposed would not have significant adverse impacts on land use, zoning, and public policy; socioeconomic conditions; community facilities and services; open space; shadows; historic resources; urban design and visual resources; neighborhood character; natural resources; waterfront revitalization program; infrastructure; hazardous materials; solid waste and

sanitation services; energy; traffic and parking; transit and pedestrians; air quality; noise; or public health.

By correspondence dated Jun 3, 2026, the New York City Department of City Planning (“DCP”), Division of Climate and Sustainability Planning, states that it has reviewed the proposed project for consistency with policies and intent of the New York City Waterfront Revitalization Program (“WRP”). Based on the information submitted, the Climate and Sustainability Planning Division, on behalf of the New York City Coastal Commission, having reviewed the waterfront aspect of this action, hereby concurs that the actions will not substantially hinder the achievement of any Waterfront Revitalization Program (WRP) policy. This determination is only applicable to the information received and the current proposal. Any additional information or project modifications would require an independent consistency review. This project has been assigned WRP #26-050.

No other significant effects upon the environment that would require an Environmental Impact Statement are foreseeable. Based on the foregoing, the Board has determined that the proposed action will not have a significant adverse impact on the environment.

VII. Decision

In light of the foregoing, the Board finds that the evidence in the record supports the findings required to be made under Z.R. §§ 73-311 and 73-03 and that the applicant has substantiated a basis to warrant exercise of discretion.

Therefore it is Resolved, that the Board of Standards and Appeals does hereby *issue* a Negative Declaration prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1997, as amended and make each and every one of the required findings under Z.R. §§ 73-311 and 73-03 to *permit*, in a C4-3 zoning district, the operation of a drive-through facility, accessory to a UG VI, eating and drinking establishment, contrary to Z.R. § 32-15; *on condition* that all work, site conditions and operations shall conform to drawings filed with this application marked “Approved Plans,” received on June 26, 2026 — Seventeen (17) sheets; and *on further condition*:

THAT this grant shall be limited to a term of ten years, to expire on July 13, 2036;

THAT a minimum of 11 reservoir parking spaces shall be maintained, as illustrated on the BSA-approved plans;

THAT under no circumstances shall the operator allow motor vehicle queues to spill back onto the street, including blockages of

sidewalks because of the operational safety concerns and appropriate signage shall be maintained advising of the same;

THAT if the above condition fails to be met during operation of the facility and no other corrective measures can be reasonably implemented by the operator, then, and in consultation with the NYC Department of Transportation (“DOT”) and DOB, and after providing advanced written notice and permitting the operator an opportunity to be heard, BSA will take action to revoke the special permit;

THAT the AVC feature shall remain active on the menu board speaker at all times;

THAT all pavement markings and circulation signage within the site and all screening, including landscaping and fencing shall be provided and maintained as per the BSA-approved plan;

THAT the above conditions shall be listed on the certificate of occupancy;

THAT a certificate of occupancy, also indicating this approval and calendar number (“BSA Cal. No. 2026-08-BZ”), shall be obtained within four years, by July 13, 2030;

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

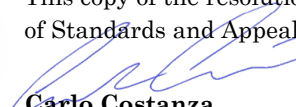
THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code, and any other relevant laws under the jurisdiction of the Department.

Adopted by the Board of Standards and Appeals, July 13, 2026.



CERTIFICATION

This copy of the resolution is hereby filed by the Board of Standards and Appeals on August 12, 2026.


Carlo Costanza,
BSA Executive Director