

CEQR#03-BSA-021X

APPLICANT - Stanley K. Schlein, Esq., for Beatrice Clemente, owner; 4201 Webster Corp., lessee.

SUBJECT - Application August 9, 2002 - under Z.R. §72-21, to permit the proposed construction and operation of a gasoline service station and an accessory convenience store, located within an R7A zoning district, which is contrary to Z.R. §22-00.

PREMISES AFFECTED - 527 East 233rd Street, a/k/a 4201 Webster Avenue, bounded by East 233rd Street, Webster Avenue and Peters Place, Block 3395, Lot 80, Borough of The Bronx.

COMMUNITY BOARD #12BX

APPEARANCES - None.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT-

Affirmative: Chairman Chin, Vice-Chair Babbar, Commissioner Korbey, Commissioner Caliendo and Commissioner Miele.....5

Negative:0

THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated July 22, 2002 acting on Application No. 200739503 reads:

"Propose one story retail convenience store and metal canopy over pump islands accessory to automotive service station located in a R7A zone is not permitted. Proposed use is contrary to Sec. 22-00 of ZR.;" and

WHEREAS, a public hearing was held on this application on October 8, 2002 after due notice by publication in The City Record and laid over to November 12, 2002, and then to December 10, 2002 for decision; and

WHEREAS, Community Board No. 12 in The Bronx recommended conditional approval of the subject application;

WHEREAS, the site and surrounding area had a site and neighborhood examination by a committee of the Board consisting of Chairman James Chin, Vice Chairman Satish Babbar, Commissioner Mitchell Korbey and Commissioner Peter Caliendo; and

WHEREAS, this is an application under Z.R. §72-21, to permit, in an R7A zoning district, the construction and operation of a gasoline station with an accessory convenience store which is contrary to Z.R. §22-00; and

WHEREAS, Automotive Service Stations (Use Group 16B), are permitted as-of-right in C8, M1, M2 and M3 districts and by, special permit from the Board of Standards and Appeals in C2, C4, C6, and C7 districts, with accessory uses such as the instant convenience store classified as Use Group 16E uses; and

WHEREAS, the record indicates that the subject site is unique in several respects, including having an irregular shape and limitations on access due to steep topographical conditions in the surrounding area. The site, which contains 19,570 square feet of lot area, is trapezoidal in shape, with 76' of frontage on East 233rd Street, 191' of frontage on Peters Place, 192 feet of frontage on Webster Avenue and a rear lot line of 130'; and

WHEREAS, until 1994, the subject parcel housed a diner with an accessory paved parking lot, but is presently developed with a vacant one-story 3,041 square foot commercial building with an accessory paved parking lot; and

WHEREAS, the applicant represents that due to excavation to level the site, which was part of a hill rising to the north and to the west, the site does not have access onto Peters Place, except at the 233rd Street end; and

WHEREAS, further, at the other frontages, Peters Place rises above the site, at the top of a sheer rock face that increases in height towards the rear of the property; and

WHEREAS, site's history of development with a prior non-conforming use and evidence in the record indicating that the subject site cannot house or be converted to a viable conforming use creates an unnecessary hardship in complying strictly with the Zoning Resolution; and

WHEREAS, evidence in the record, including a feasibility study and financial analysis sufficiently demonstrates that a conforming use in the entire building would not yield a reasonable return; and

WHEREAS, the record indicates that except for its northernmost end, the project site and the remainder of the block were zoned C8-1 until 1996, when the R7A district was mapped; and

WHEREAS, the Board notes that prior to the zoning change, the applicant's proposal would have been permitted as-of-right; and

WHEREAS, the record indicates that the subject property is located in an area characterized by commercial uses; and

WHEREAS, therefore, the Board finds that the proposed application will not alter the essential character of the surrounding neighborhood, nor impair the use of development of adjacent properties nor be detrimental to the public welfare; and

WHEREAS, the hardship herein was not created by the owner or a predecessor in title; and

WHEREAS, the Board finds that the variance application is the minimum variance necessary to afford the owner relief; and

WHEREAS, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. §72-21; and

WHEREAS, the Board has conducted an environmental review of the proposed action and has carefully considered all relevant areas of environmental concern; and

WHEREAS, the evidence demonstrates no foreseeable significant environmental impacts that would require the preparation of an Environmental Impact Statement.

Resolved that the Board of Standards and Appeals issues a Negative Declaration under 6 NYCRR Part 617 and §6-07(b) of the Rules of Procedure for City Environmental Quality Review and makes each and every one of the required findings under Z.R. §72-21, to permit, in an R7A zoning district, the construction and operation of a gasoline station with an accessory convenience store which is contrary to Z.R. §22-00, on condition that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked

Received November 4, 2002"-(1) sheet, and "September 4,

THAT; the term of the variance shall be limited to ten (10) years from the date of this grant, to expire on December 10, 2012;

THAT the proposal shall comply with the fires safety measures stated on the Proposed Conditions Site Plan (sheet 2 of 6);

THAT the above conditions shall be noted in the Certificate of Occupancy;

THAT substantial construction shall be completed in accordance with Z.R. §72-23;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

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 plan(s) and/or configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, December 10, 2002.

2002" -(2) sheets; and on further condition;