

302-01-BZ

APPLICANT – Greenberg Traurig, LLP by Jay A. Segal, Esq., for Creston Avenue Realty LLC, owner.
SUBJECT – Application April 19, 2017 – Amendment of a pre-1961 variance which permitted an open parking lot accessory to a commercial building. The Amendment seeks to develop an as-of-right building on the site retaining the accessory parking. R8 zoning district.

PREMISES AFFECTED – 2519-2525 Creston Avenue, Block 3175, Lot 26, Borough of Bronx.

COMMUNITY BOARD #7BX

ACTION OF THE BOARD – Application granted on condition

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice-Chair Chanda and Commissioner Ottley-Brown.....3

Negative:0

THE RESOLUTION –

WHEREAS, this is an application to amend a variance, previously granted by the Board, to permit the development of an as-of-right building on the site; and

WHEREAS, a public hearing was held on this application on June 27, 2017, after due notice by publication in *The City Record*, with a continued hearing on July 25, 2017, and then to decision on the same date; and

WHEREAS, Commissioner Ottley-Brown performed an inspection of the site and surrounding neighborhood; and

WHEREAS, Community Board 7, the Bronx, recommends approval of the application; and

WHEREAS, the subject site is located on the southwest corner of Creston Avenue and East 191st Street, within an R8 zoning district, in the Bronx; and

WHEREAS, the site has approximately 172 feet of frontage along Creston Avenue, 136 feet of frontage along East 191st Street, 24,677 square feet of lot area and is occupied by a parking lot; and

WHEREAS, the Board has exercised jurisdiction over the subject site since December 7, 1948, when, under BSA Cal. No. 861-48-BZ, the Board granted a variance to permit the parking of more than five (5) motor vehicles at the site for customers and patrons of a nearby department store for a term of two (2) years, expiring December 7, 1950, on various conditions; and

WHEREAS, on December 20, 1949, under BSA Cal. No. 861-48-BZ, the Board amended the resolution to permit the department store to charge customers for parking and to accept revised plans indicating a single entrance and exit from the premises; and

WHEREAS, on November 28, 1950, under BSA Cal. No. 861-48-BZ, the Board extended the term of the variance for another two (2) years, expiring November 28, 1952; and

WHEREAS, on May 22, 1951, under BSA Cal. No. 861-48-BZ, the Board granted a three (3) month extension of time to complete construction and obtain a certificate of

occupancy, expiring August 22, 1951; and

WHEREAS, on November 25, 1952, under BSA Cal. No. 861-48-BZ, the Board extended the term of the variance for an additional five (5) years, expiring November 25, 1957, on condition that all permits be obtained and a new Certificate of Occupancy be obtained within three (3) months; and

WHEREAS, on June 8, 1954, under BSA Cal. No. 861-48-BZ, the Board denied a variance application proposing to construct a one-story garage on the site and utilize the roof for additional parking; and

WHEREAS, on the same date, under BSA Cal. No. 48-54-A, the Board denied an appeal from Department of Buildings objections related to the same proposal; and

WHEREAS, on November 13, 1963, April 25, 1972, January 10, 1978, and June 21, 1983, under BSA Cal. No. 861-48-BZ, the Board extended the term of the variance for five (5) year terms, the latest of which expired January 10, 1988; and

WHEREAS, on April 23, 2002, under the subject calendar number, the Board reestablished the expired variance, pursuant to ZR §§ 11-411 and 73-01, permitting an accessory parking facility for commercial use for a term of ten (10) years, expiring April 23, 2012, on condition that the premises be maintained free of debris and graffiti, the fences and gates be of legal and uniform height, lighting be directed down and away from residential uses and that these conditions appear on the Certificate of Occupancy; and

WHEREAS, on January 10, 2012, under the subject calendar number, the Board granted a six (6) month extension of time to obtain a Certificate of Occupancy, expiring July 10, 2012; and

WHEREAS, on December 11, 2012, under the subject calendar number, the Board further extended the term of the variance for an additional ten (10) years, expiring April 23, 2022, and granted a one (1) year extension of time to obtain a Certificate of Occupancy, expiring December 11, 2013, on condition that the site be maintained free of debris and graffiti and that this condition appear on the Certificate of Occupancy; and

WHEREAS, on October 21, 2014, under the subject calendar number, the Board granted another one (1) year extension of time to obtain a Certificate of Occupancy, expiring October 21, 2015; and

WHEREAS, Certificate of Occupancy No. 200683590F was issued for the subject site, effective August 10, 2015, indicating its use as a parking lot for 67 vehicles solely for customers and patrons of 2501 Grand Concourse; and

WHEREAS, the applicant proposes to develop the site with a 12-story mixed-use residential and community facility building and continue to provide 66 accessory parking spaces within the cellar and ground floor; and

WHEREAS, the applicant represents that the proposed mixed-use building is fully compliant with all applicable zoning regulations; the Board has neither reviewed the proposed building for zoning compliance nor

302-01-BZ

contemplated any waivers associated with its use or building envelope; and

WHEREAS, the applicant submits that the site is located in the Transit Zone and that the proposed building will provide "income-restricted housing units," as defined in ZR § 12-10, for which no accessory off-street parking spaces are required pursuant to ZR § 25-251, and, further, that the proposed building will have no more than 38 units at rents affordable to households earning above 80 percent Area Median Income ("AMI"), for which parking for 40 percent of the units is required where group parking facilities are provided pursuant to ZR § 25-23 in the subject district, resulting in a maximum of 15 required spaces, all of which may be waived pursuant to ZR § 25-261; and

WHEREAS, thus, the applicant represents that the 66 accessory parking spaces will be sufficient for both residents of the proposed building, who are not anticipated to own cars, and the continued use by employees and patrons of the offices and stores now located at the building previously occupied by the large department store to which the existing parking lot was originally permitted as accessory (identified on the Certificate of Occupancy as 2501 Grand Concourse); and

WHEREAS, the proposed enclosed parking facility will be self-park, though an attendant is proposed to be present at the premises seven days a week from 7:00 a.m. to 10:00 p.m. to ensure that daily parkers are patrons of or visitors to 2501 Grand Concourse; at all other hours, the applicant submits that monthly parkers, likely employees of the offices and stores located at 2501 Grand Concourse, will have 24-hour access to the parking facility through an electronic control device; and

WHEREAS, in response to Board concerns regarding buffering the parking facility use from adjacent residential uses, the applicant revised the drawings to indicate, *inter alia*, a 6-foot tall metal screened fence along a portion of the western lot line, a 6-foot tall vegetated screen fence with native climbing vines planted in ground along the southern lot line and landscaping throughout the site; and

WHEREAS, based on the foregoing, the Board has determined that the request to amend the variance to permit the development of a mixed-use residential and community facility building with 66 accessory parking spaces provided on the cellar and first floor levels is appropriate with certain conditions as set forth below.

Therefore, it is Resolved, that the Board of Standards and Appeals *reopens* and *amends* the resolution, dated April 23, 2002, as amended through October 21, 2014, so that as amended this portion of the resolution shall read: "to permit the development on the

site of an as-of-right mixed-use residential and community facility building, compliant with applicable zoning regulations, with 66 accessory parking spaces provided on the cellar and first floor levels; *on condition* that all work shall substantially conform to drawings as filed with this application, marked "Received July 25, 2017"- Fourteen (14) sheets; and *on further condition*:

THAT the building occupying the site shall provide income-restricted housing, as defined in ZR § 12-10, for which no accessory off-street parking spaces are required pursuant to ZR § 25-251, and a maximum of 38 moderate income units for which a maximum of 15 accessory off-street parking spaces are required and, thus, waived pursuant to ZR § 25-261;

THAT the parking spaces provided are accessory to use(s) located at 2501 Grand Concourse, but otherwise available to residential tenants of the proposed mixed-use building;

THAT monthly parkers shall have access to the subject parking facility 24-hours a day 7-days a week by key card or other electronic device;

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

THAT the fences and gates shall be of legal and uniform height;

THAT the lighting shall be directed down and away from residential uses;

THAT the above conditions shall appear on the Certificate of Occupancy;

THAT substantial construction shall be completed pursuant to ZR § 72-23;

THAT a new Certificate of Occupancy shall be obtained within four (4) years;

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

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 DOB shall 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, July 25, 2017.

A true copy of resolution adopted by the Board of Standards and Appeals, July 25, 2017.

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Copies Sent

To Applicant

Fire Com'r.

Borough Com'r.

