

Note. —This resolution is final but subject to formal revision before publication in the Bulletin. Please notify the General Counsel of any typographical or other formal errors so that corrections may be made before the Bulletin is published.

CORRECTION: This resolution adopted on July 27, 2026, under Calendar No. 964-87-BZ, is hereby corrected to read as follows:

BOARD OF STANDARDS AND APPEALS

MEETING OF: July 27, 2026
CALENDAR NO.: 964-87-BZ
PREMISES: 786 Burke Avenue, Queens
Block 4571, Lot 28

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 —

I. The Request

This is an application for a waiver of the Board’s Rules of Practice and Procedures (“Board’s Rules”), an extension of term, pursuant to Z.R. § 11-411, which expired on February 6, 2020, and an extension of time to obtain a certificate of occupancy, which expired on December 16, 2016, for a variance that permitted automobile retail sales and service use.

A public hearing was held on this application on June 15, 2026, after due notice by publication in *The City Record*, and then to decision on July 27, 2026.

Community Board 12, Bronx, recommends approval of this application on condition that the sale of automobiles be prohibited.

II. The Location

The Premises are located at the southwest corner of the intersection of Burke Avenue and Barnes Avenue, within a C1-3 (R6) zoning district, in the Bronx. The Premises have approximately 125 feet of frontage along Burke Avenue, 150 feet of frontage along Barnes Avenue, and 17,502 square feet of lot area, and are occupied by a UG VI gasoline service station with a one-story commercial building containing automotive repair and accessory convenience store uses.

III. Board History

The Board has exercised jurisdiction over the Premises since October 22, 1957, when, under BSA Cal. No. 52-57-BZ, the Board granted a variance to permit, the Premises to be occupied as a gasoline service station and

accessory uses, substantially as proposed and as indicated on the BSA-approved plans; on condition that all buildings and uses now on the Premises be removed and the site graded substantially to the grade of Burke Avenue and the southerly portion accessible by ramps and with a retaining wall at a point approximately 50 feet from the south lot line; the front portion of the Premises be arranged and constructed as indicated on the BSA-approved plans; there be no cellar in the accessory building and the building be faced with face brick on all sides, including the walls of the non-automatic car laundry; pumps be of a low approved type, erected not nearer than 15 feet to the street building line of Burke Avenue; the number of gasoline storage tanks not exceed twelve 500-gallon approved tanks; on the lot lines to the west and north, continuously from Burke Avenue to Barnes Avenue there be erected a woven wire fence of the chain link type erected on a masonry base to a total height of 5 feet 6 inches and with suitable terminating posts; if retaining walls are required at any portion of the rear of the plot, such retaining walls be constructed and maintained at the expense of the owner and the woven wire fences required be erected thereon; curb cuts be restricted to two to Burke Avenue; sidewalks and curbs abutting the site be constructed or repaired to the satisfaction of the borough president; such portable fire fighting appliances be maintained as the fire commissioner direct; where not occupied by accessory building and pumps, the northerly portion of the Premises be paved with asphaltic paving or concrete; the elevated portion of the site at the rear be maintained at a higher level and be similarly paved, with ramps where indicated for access thereto from front portion of the site; signs be restricted to permanent signs attached to façade of accessory building, excluding all roof signs and temporary signs, but permitting the erection at the intersection within the building line of a post standard for supporting a sign, which may be illuminated, advertising only the brand of gasoline on sale and permitting such sign to extend not more than 4 feet beyond the building line; under section 7i for a similar term there be minor repairing with hand tools only for adjustments maintained solely within the accessory building; under Section 7e for a similar term there be parking and sale of cars in spaces where the servicing of the station not be interfered with; under Section 7A any show windows in the accessory building and curb cuts deemed contrary to the requirements of law be permitting where shown on the BSA-approved plans; all permits required be obtained and all work completed and a certificate of occupancy obtained within the requirement of Section 22A of the Zoning Resolution.

On November 8, 1972, under BSA Cal. No. 52-57-BZ, the Board extended the term of the variance for ten years, to expire on October 22, 1982, on condition that other than as amended the prior resolution be complied with in all respects and a new certificate of occupancy be obtained.

On December 20, 1977, under BSA Cal. No. 52-57-BZ, the Board amended the resolution to permit the façade of the building to be restyled, substantially as shown on the revised BSA-approved plans; on condition that substantial construction be completed within one year, by December 20, 1978, and other than as amended the prior resolution be complied with in all respects.

On February 6, 1990, under the subject calendar number, the Board reinstated the variance, under Z.R. § 11-411, to permit, in a C1-3 (R6) zoning district, a gasoline service station with accessory uses and parking for more than five automobiles; on condition that all work substantially conform to the BSA-approved plans; the special permit be limited to a term of ten years, to expire on February 6, 2000; hours of operation be limited to 6:00 a.m. to 12:00 midnight Monday through Saturday and 7:00 a.m. to 7:00 p.m. Sunday; there be a strip along the interior lot lines at least 3'6" wide, densely planted with shrubs or trees at least 4' high at the time of planting and which are of a type which may be expected to form a year-round dense screen at least 6' high within 3 years; street trees, landscaping and guard rails be adequately maintained at all times and replaced when necessary; sidewalks be kept in good repair at all times; signs comply with C1 district regulations and there be no temporary signs; parking be limited to cars awaiting service; gates be locked after business hours; the above conditions appear on the certificate of occupancy; the development, as approved, be subject to verification by the Department of Buildings for compliances with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under the jurisdiction of the Department; and substantial construction be completed in accordance with Z.R. § 73-70.

On January 15, 2002, under the subject calendar number, the Board amended the resolution to permit the installation of a 24' by 36' canopy over the existing gasoline dispensers and to legalize the existing pump island with four dispensers; on condition that the term of the variance be limited to ten years, to expire on February 6, 2010; there be no sale of diesel fuel; there be no fueling of trucks on the Premises; there be no sale of used cars on the Premises; there be no outdoor storage; outdoor repairs not be performed at the site; there be no parking of vehicles on the Premises; the Premises be maintained free of debris and graffiti; the Premises be maintained in substantial compliance with the BSA-approved plans; and a new certificate of occupancy be obtained within one year, by January 15, 2003.

On May 10, 2011, under the subject calendar number, the Board waived its Rules of Practice and Procedures; extended the term of the variance for ten years, to expire on February 6, 2020; extended the time to obtain a certificate occupancy to May 10, 2012; and amended the resolution to permit a change of use and hours of operation; on condition that the use and operation of the site substantially conform to the BSA-approved plans; the term of the grant expire on February 6, 2020; a maximum of ten parking spaces on the site be made available for rent, and such parking spaces be rented on a monthly basis only; the hours of operation for gasoline sales on the site be 24 hours per day, seven days per week, and the hours of operation for repair use on the site be Monday through Friday, from 8:00 a.m. to 6:00 p.m., Saturday, from 8:00 a.m. to 3:00 p.m., and closed on Sundays; all signage comply with C1 zoning district sign regulations; all lighting be directed downward and away from adjacent residential uses; the above conditions be listed on the certificate of occupancy; a certificate of occupancy be obtained by May 10, 2012; all conditions from the prior resolution not specifically waived by the Board remain in effect; and the Department of

Buildings ensure compliance with all other applicable provisions of the Zoning Resolution, Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

On December 16, 2014, under the subject calendar number the Board waived its Rules of Practice and Procedures; extended the time to obtain a certificate of occupancy to December 16, 2016; and amended the resolution to permit the conversion of a portion of the building to an accessory convenience store; on condition that the use and operation of the site substantially conform to the BSA-approved plans; the accessory convenience store be limited to a maximum of 63 square feet of floor area; a maximum of ten parking spaces on the site be made available for rent, and such parking spaces be rented on a monthly basis only; the hours of operation for gasoline sales on the site be 24 hours per day, seven days per week and the hours of operation for the repair use on the site be Monday through Friday, from 8:00 a.m. to 6:00 p.m., Saturday, from 8:00 a.m. to 3:00 p.m., and closed on Sundays; all signage comply with C1 zoning district sign regulations; all landscaping and fencing be maintained; all lighting be directed downward and away from adjacent residential uses; the site be maintained free of debris and graffiti; the above conditions be listed on the certificate of occupancy; a certificate of occupancy be obtained by December 16, 2016; all conditions from the prior resolutions not specifically waived by the Board remain in effect; and DOB ensure compliance with all 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.

IV. The Proposal

The term of the variance and time to obtain a certificate of occupancy having expired, the applicant seeks extensions. The applicant represents that the Premises comply with the Board's grant and applicable law and affirms, in accordance with Z.R. § 11-41, that the lot area has not increased. Because this application was filed more than two years after the expiration of term and more than 30 days after the expiration of time, the applicant seeks a waiver, pursuant to § 1-14.2 of the Board's Rules, of § 1-07.3(b)(3)(i) and (d)(2) of the Board's Rules to permit the filing of this application. The applicant asserts that the use has been continuous since the expiration of term and, in support, submitted annual site photographs, dated from 2020 to 2025, which indicate that the subject automotive service use was operating. The applicant further submits that substantial prejudice would result without the requested waivers, as the Premises have been in consistent use for decades and continue to serve as an established and valuable commercial facility within the neighborhood.

V. Board Review

At hearing, the Board directed the applicant to specify its hours of operation, clean the Premises, confirm there is no moving-truck rental

operation at the Premises, stripe the parking lot, state whether the barbed wire observed was on the subject property and if so remove it, detail its DOB TPPN 10/99 analysis to ensure compliance, and clarify the reason for the observed plate-less cars parked on the lot. In response, the applicant represents that its hours of operation are the hours that the Board previously approved. The applicant also submitted photographs showing the Premises free of debris and with parking striped and represented to the Board that the barbed wire belonged to the neighboring property and not the subject site. Regarding the plate-less vehicles and truck-rental inquiry, the applicant asserts that the vehicles are from neighboring car dealerships and are at the Premises for repairs prior to being registered and further confirmed that there is no truck-rental operation at the subject site. The applicant also detailed its TPPN 10/99 analysis as follows: The applicant first quotes TPPN 10/99 § 1, which provides, in pertinent part, that a “proposed retail convenience store will be deemed accessory to the automotive service station located on the same zoning lot if the following guidelines are met: A. The accessory retail use shall be located on the same zoning lot as the service station and it shall be contained within a completely enclosed building [and] B. The accessory retail use shall have a maximum retail selling floor area of either 2500 square feet or twenty-five percent (25%) of the zoning lot area, whichever is less.” The applicant referenced its proposed plans as indicating that the sales area, which it shaded and notated, would be 670 square feet plus a 85 square foot bathroom, totaling 755 square feet of sales area, which the applicant notes is defined by TPPN 10/99 as “all floor area of the retail convenience store that is accessible to the public.” The applicant contends that this 755 square foot area would comply with TPPN 10/99, since it is less than the 2,500 square foot permitted maximum, which is less than 25% of the total lot area of the zoning lot ($17,502 \times 25\% = 4375.5$ square feet).

VI. The Decision

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

Therefore, it is Resolved, that the Board of Standards and Appeals does hereby *waive* its Rules of Practice and Procedures and *amend* the variance, originally granted under BSA Cal. No. 52-57-BZ, dated October 22, 1957, and reinstated under BSA Cal. No. 964-87-BZIV, as amended through December 16, 2014, so that as amended this portion of the resolution shall read: “to extend the term of a previously approved variance, pursuant to Z.R. § 11-411, for ten years, to expire on July 27, 2036, and extend the time to obtain a certificate of occupancy to July 27, 2028, *on condition* that all work, site conditions, and operations shall substantially conform to drawings filed with this application marked “Approved Plans” – Thirteen (13) sheets, submitted on June 26, 2026; and on *further condition*:

THAT the term of the grant shall expire on July 27, 2036;

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THAT no more than ten parking spaces shall be made available for rent on a monthly basis and the remaining parking spaces will be used for customers and vehicles awaiting repair and pickup;

THAT no sales of vehicles will be permitted on the site;

THAT signage shall comply with the underlying zoning regulations subject to DOB review;

THAT the hours of operation for gasoline sales on the site shall be 24 hours per day, seven days per week and the hours of operation for the repair use on the site shall be Monday through Friday, from 8:00 a.m. to 6:00 p.m., Saturday, from 8:00 a.m. to 3:00 p.m., and closed on Sundays;

THAT all landscaping and fencing shall be maintained;

THAT all lighting shall be directed downward and away from adjacent residential uses;

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

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. 964-87-BZ"), shall be obtained within two years, by July 27, 2028;

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;

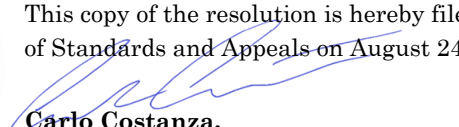
THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plans or configurations not related to the relief granted."

Adopted by the Board of Standards and Appeals, July 27, 2026.



CERTIFICATION

This copy of the resolution is hereby filed by the Board of Standards and Appeals on August 24, 2026.


Carlo Costanza,
BSA Executive Director