

25-57-BZ

APPLICANT – Rothkrug Rothkrug & Spector LLP, for 221-016 Merrick Blvd. Associates, LLC, owner.

SUBJECT – Application July 31, 2014 – Amendment (§11-413) to permit a change in use (UG 6 retail use) of an existing commercial building in conjunction with alteration of an existing commercial building, demolition of three existing commercial buildings and construction of a new commercial building located within a C2-3 and R3A zoning district.

PREMISES AFFECTED – 221-18 Merrick Blvd, southwest corner of intersection of Merrick Blvd. and 221st Street, Block 13100, Lot(s) 22 & 26, Borough of Queens.

COMMUNITY BOARD #13Q

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter; Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez.....4
Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for a reopening and an amendment to permit a change in use of a portion of an existing commercial building located partially within an R5D (C2-3) zoning district and partially within an R3A zoning district, from an auto repair and tire use (Use Group 16) to a retail use (Use Group 6); and

WHEREAS, a public hearing was held on this application on February 10, 2015, after due notice by publication in the *City Record*, with continued hearings on March 10, 2015 and March 31, 2015, and then to decision on April 14, 2015; and

WHEREAS, Commissioners Montanez and Ottley-Brown performed examinations of the subject site and premises, as well as the surrounding area; and

WHEREAS, the subject site is a corner lot located at the southeast corner of the intersection of Merrick Boulevard and 221st Street, within an R5D (C2-3) zoning district, and also within an R3A zoning district, in Queens; and

WHEREAS, the site has approximately 205 feet of frontage along the south side of Merrick Boulevard and 97 feet of frontage along the east side of 221st Street, and contains 30,734 sq. ft. of lot area; and

WHEREAS, the site is occupied by four commercial buildings currently used for retail sales and operated as the Merrick Flea Market; and

WHEREAS, the applicant proposes to demolish the three buildings located closest to Merrick Boulevard and reduce the floor area of the fourth building, situated on the southerly portion of the subject site (the “Subject Building”), from 10,600 sq. ft. to 8,176 sq. ft., thereby reducing the total FAR of the zoning lot from 0.67 to 0.27; and

WHEREAS, the applicant further proposes to change the use of the Subject Building to a Use Group 6

retail use; and

WHEREAS, the site has been subject to the Board’s jurisdiction since September 24, 1957, when, under BSA Cal. No. 25-57-BZ, the Board permitted the extension of the existing use (manufacturing, sales, and storage of auto supplies) to include parking of more than five cars in the southerly portion of the subject site; and

WHEREAS, the foregoing variance was amended on April 10, 1962 to permit the erection of the Subject Building; and

WHEREAS, the applicant now seeks approval for a change of use to retail (Use Group 6) on that portion of the Subject Building which is located in the R3A zoning district pursuant to ZR §§ 11-413 and 52-34; and

WHEREAS, pursuant to ZR § 11-413, the Board may permit a change in use from a non-conforming use to a conforming use; and pursuant to ZR § 52-34, the Board may permit a change in use from a non-conforming use to certain other uses which do not comply with underlying use regulations, including Use Group 6, provided that the change of use does not impair the character or future use or development of the surrounding area; and

WHEREAS, the applicant states that the proposal significantly reduces the amount of floor area devoted to a non-conforming use and the conversion of the use from auto repair and tire use (Use Group 16) to retail (Use Group 6) reduces the impact of the non-conforming use on the surrounding neighborhood; and

WHEREAS, the application asserts that the proposed commercial use is compatible with the essential character of the conforming and non-conforming commercial uses in the surrounding area, including other retail uses at the intersection of Merrick Boulevard and 221st Street, and notes the historic commercial use of the site; and

WHEREAS, the applicant also notes that the planned development of the site will increase the number of accessory parking spaces thereupon from 18 to 44; and

WHEREAS, the applicant represents that all signage at the site shall comply with the regulation applicable to the C2 zoning district and will not be located on that portion of the zoning lot located in the residence district; and

WHEREAS, based on the foregoing, the Board has determined that the evidence in the record supports the findings required to be made under ZR §§ 11-412 and 11-413.

Therefore it is Resolved, that the Board of Standards and Appeals *reopens* and *amends* the resolution, dated September 24, 1957, to permit the noted changes in use; *on condition* that any and all work shall substantially conform to drawings as they apply to the objection above noted, filed with this application marked “April 14, 2015”-(3) sheets; and *on further condition*:

THAT the total floor area of the Subject Building is limited to 8,176 sq. ft. and all other bulk parameters shall be as reflected on the BSA-approved plans;

25-57-BZ

THAT the subject zoning lot shall not be modified without further BSA approval;

THAT all signage at the site shall comply with C2 regulations and that no signage shall be located in that portion of the site which is located in the R3A zoning district;

THAT all construction will be completed and a certificate of occupancy obtained within four years of the date of this grant;

THAT the approved plans will be considered approved only for the portions related to the specific relief granted; and

THAT DOB Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, April 14, 2015.

A true copy of resolution adopted by the Board of Standards and Appeals, April 14, 2015.

Printed in Bulletin Nos. 16-17, Vol. 100.

Copies Sent

To Applicant

Fire Com'r.

Borough Com'r.

