



Chairperson, Martha Taylor

*The City of New York
Borough of Queens*

Community Board 8

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District Manager, Marie Adam-Ovide

PUBLIC HEARING:

**BSA Cal. No. 171-97-BZ
65-01 Kissena Boulevard
BSA Cal. 2021-59-BZ
161-09 Union Turnpike**

DATE:

Tuesday, October 26, 2021

PLACE:

Via WebEx

ATTENDANCE:

**Steven Konigsberg, Zoning Committee Chair
Susan Cleary, Board Member
Edward Chung, Board Member
Solomon Davydov, Board Member
Howard Fried, Board Member
Kevin Forrestal, Board Member
James Gallagher Jr., Board Member
Dilip Nath, Board Member
Douglas Sherman, Board Member**

Others in attendance:

**Ms. Sandy Anagnostou, Caliendo Architects
Jay Goldstein, Esq., Applicant Representative
Jatnna Reyes, CB8 Staff Member**

BSA Cal. No. 171-97-BZ/BBL 4-6742-10 – 65-01 Kissena Boulevard

Purpose of Public Hearing

This application was filed pursuant to Sections 72-01 and 72-22-ZR of the New York City Zoning Regulation. It seeks an extension of terms of a variance which permitted a trade school (Use Group 9) and accessory use granted for a term of 20 years. A waiver of rules of procedure is also requested pursuant to 1-01.3 (b)(3) since the prior term expired on October 30, 2018.

Zoning Chairperson Steven Konigsberg called this Public Hearing to order at 7:30 p.m. He introduced the Board Members present and explained the rules governing the Hearing. There were 8 Board Members present; therefore, there was a quorum. A vote will be taken by the full Board at the Community Board Meeting on Wednesday, November 10, 2021 at the Hillcrest Jewish Center, located at 183-02 Union Turnpike at 7:30 p.m.

Public Participation

There was no public participation for this application.

Zoning Chairperson Steven Konigsberg introduced Ms. Sandy Anagnostou, representing the applicant of the above premises.

Presentation by Ms. Anagnostou representing the applicant.

This is an application for an extension of a term of variance which expired on October 30, 2018. The prior term was a 20-year term. Under the prior term the variance permitted the operation of a trade school, retail store and an eating and drinking establishment within a two-story and cellar building located at Kissena Boulevard and 65th Avenue. The current businesses located there are, Gino's Pizzeria & Restaurant, A Day Care Center, the Trade School, and a fruit preparation area in the cellar which is accessory to the restaurant. There is also a copy print shop and bookstore at the premises.

The lot area is 8,619 sq. ft. The existing floor area is 15,064 sq. ft. There are no changes proposed. This application is strictly for an extension of a term which expired. The Board of Standard of Appeals (BSA) variance always have a term on them unless it is for residential. The site is located across from Queens College, adjacent to an existing park/playground. It is within an R4 Zoning District. *Slides of the site plan were shown.*

Ms. Anagnostou stated that they received a notice of comments from the BSA. They responded to it and made a submission today. The Community Board was copied via email.

Zoning Chairperson Steven Konigsberg opened the floor for questions from the Board Members.

Questions by the Board Members:

Kevin Forrestal:

To [Jatna Reyes] – Has there been any complaints on file from the community about this property?

Answer: [Ms. Reyes] – No, we have not received anything on this property.

Susan Cleary:

I noticed a stain where they have the containment of debris. It looks like there was a stain which leaks out to the sidewalk.

Answer: [Ms. Anagnostou] – I have the property owner here tonight with us. I can have him clean it. Yes, just make sure this gets cleaned. It does not look good.

Dilip Nath:

Based on what I heard, there are no changes. Why is this coming to the Board now?

Answer: [Steve Konigsberg] – It has to come back after 20 years when it expires. It expired in 2018. So, they came back to renew.

Zoning Chair Konigsberg asked for a motion.

Kevin Forrestal made a motion to approve BSA Cal. No. 171-97-BZ/BBL 4-6742-10 – 65-01 Kissena Boulevard for an extension of terms of a variance which permitted a trade school (Use Group) and accessory uses granted pursuant to 72-01 and 72-22-ZR for a term of 20 years. A waiver of rules of procedure is also requested pursuant to 1-01.3 (b)(3) since the prior term expired on October 30, 2018, seconded by Howard A. Fried.

Discussion:

None.

A roll call vote was taken.

Vote:

8 in favor 0 opposed 0 abstained

Board Members who voted in favor: Susan Cleary, Edward Chung, Solomon Davydov, Kevin Forrestal, Howard A. Fried, Steven Konigsberg, Dilip Nath and Douglas Sherman.

Board Members who voted against: None.

BSA Cal. No. 2021-59-BZ/BBL 4-6831-118 – 161-09 Union Turnpike

Purpose of Public Hearing

This application was filed pursuant to Section 73-243 of the New York City Zoning Regulation. It seeks a special permit to a Use Group 6 eating and drinking establishment with accessory drive-through service in a C1-2/R3-2 zoning district.

Zoning Chairperson Steven Konigsberg called this Public Hearing to order at 7:57 p.m. He introduced the Board Members present and explained the rules governing the Hearing. There were 8 Board Members present; therefore, there was a quorum. A vote will be taken by the full Board at the Community Board Meeting on Wednesday, November 10, 2021 at the Hillcrest Jewish Center, located at 183-02 Union Turnpike at 7:30 p.m.

Public Participation

There was no public participation for this application.

Zoning Chairperson Steven Konigsberg introduced Mr. Jay Goldstein, representing the applicant of the above premises.

Presentation by Mr. Jay Goldstein representing the applicant.

This is an application is for a special permit for a drive through for a Starbucks at the premises located at 161-09 Union Turnpike. It will be located at the triangle where Union Turnpike, 162nd Street and 79th Avenue meet. Historically, there was a gas station at this location before dating back to 1952. The BSA granted a variance for the site to be used as a gas station/auto repair. It received four extensions of terms. The last one expired in 2007. The use of the Starbucks is as-of-right since it will be located in a R3/C1-2 commercial overlay. The proposal will be to have the Starbucks and create a 929 sq. ft. building. The building will have the Starbucks that will have window and drive-through service. In response to COVID-19, Starbucks is really moving away from their sitting indoors and having more of a virtual presence, where you can order ahead, walk up to the window or drive through to order your coffee.

The hours of operation will be 7 days a week from 5:30 a.m. to 11:00 p.m. They anticipate peak hours from 6:30 a.m. to 11:00 a.m. with the remainder of the day being off-peak hours. The site itself will have two curb cuts. This would allow ingress and egress to and from the property. Parking space will also be available. While there are twelve cars and four parking spaces, there will be a significant amount of space to service more cars while they arrive. They anticipate that this design and the layout will ensure that there is no impact on Union Turnpike. There will be a 6-foot fence that will go around the property except for the frontage on Union Turnpike.

The property itself will be heavily landscaped at the open areas towards the front/rear of the property. They will also be planting trees along the Union Turnpike and in front of the property. The trash will be stored in an enclosed trash receptacle area on the property. This will not impact any neighbors with the use.

Zoning Chairperson Steven Konigsberg opened the floor for questions from the Board Members.

Questions by the Board Members:

Steve Konigsberg:

To [Jay Goldstein] – You stated that the Starbucks is as of right. What is the application actually seeking?

Answer: [Mr. Goldstein] – The Starbucks itself is as of right. It is for the drive through portion of the Starbucks we are seeking [the variance].

Just for clarification, you spoke about a pick-up window and drive through. There would be absolutely no interior seating?

Answer: [Mr. Goldstein] – Correct. No interior seating.

Susan Cleary:

Anything outside?

Answer: [Mr. Goldstein] – Nothing outside proposed. There will be bike racks, some patio areas but no tables or anything. We are trying to avoid any congregations in this area.

Kevin Forrestal:

The applicant in the presentation on DOB Now has one section that lists the total lot area as 9,063 sq. ft. going further is 18,109 sq. ft.

Answer: [Mr. Goldstein] – I have it on 9,700 sq. ft. at BSA. I am not sure what the second one on DOB Now is. The proposal is to construct 929 sq. ft. which is 0.1 FAR of what is permitted as of right.

That is not what is on the application on the DOB website.

Answer: [Mr. Goldstein] – I can't speak for the Department of Buildings' application because it is not mine. The application at the BSA is what we are controlling. These plans that we are submitting will be brought back to DOB and will be corrected accordingly.

Ok. The application is asking for a denial so you can go to BSA?

Answer: [Mr. Goldstein] – Correct, that is the procedure we must follow.

It is a total commercial sq. ft. of 3,019. If you take a look, try to clean up and have the numbers put together.

Answer: [Mr. Goldstein] – Right, so when it's approved at the BSA, those plans that you have before you, will be brought back to DOB for review.

Steve Konigsberg:

To [Mr. Goldstein] – If the plans that Kevin is referring to were to construct an empire state building at that location, but the purpose of tonight's hearing is on these plans that are being presented to us now, of what is on file now, anything we do is not to approve an empire state building. Is this correct?

Answer: [Mr. Goldstein] – Correct.

Jay Goldstein – This BSA application will be prosecuted as part of the BSA resolution, it will say that we are approving for the relief requested which is for the accessory drive through. Anything beyond that, the BSA resolution will have DOB review and show compliance with all other zoning and building codes related matters. The only thing that would be approved as part of my application will be a drive through, if approved.

Kevin Forrestal – This is the first time we have seen any plans, if we are going to approve or disapprove or give a special permit, it also should reflect things that could affect the neighborhood like what these drive throughs are. I don't think we received that to be able to make a determination for the drive through as shown.

Howard Fried – Has there been any sort of study in terms of traffic patterns at that location and the number of vehicles that you expect coming in and out per hour?

Answer: *[Mr. Goldstein]* – The BSA sends this information to DOT and DOT analyzes it based on our presentation, then they come back with their comments saying what is good and what is not. We have not received a notice of comments because the application is fresh.

Is there a projection for Starbucks as to what the customer load is going to be or anticipated per hour?

Answer: *[Mr. Goldstein]* – They are anticipating 200 orders for the five-hour peak. So, 40 orders per hour.

If you assume 40 orders, you are assuming 40 cars that will be driving through, correct?

Answer: *[Mr. Goldstein]* – Well, there is driving but there is also parking there. We anticipate that there will be a number of mobile orders for pick-up that won't be all for driving.

It sounds like it could be a pretty congested space on Union Turnpike for two-lanes.

Answer: *[Mr. Goldstein]* – There are three lanes at this portion of Union Turnpike. We have room for 16 cars without crowding of our space. We anticipate that this will be more than enough for traffic flow. If DOT does raise a concern about this, then the layout of the parking will be altered to fix that.

Solomon Davydov – I know they said they are not doing any seating at all but they are having some tables. I remember from history that this site was an automotive site. Are they doing any Phase I or Phase II environmental studies to determine if there are any concerns?

Answer: *[Mr. Goldstein]* – They have done the clean-up already so there are no environmental concerns for this project.

Susan Cleary:

What about the pollution? People are going to pick-up their stuff, what are you going to do about the pollution?

Answer: *[Mr. Goldstein]* – In terms of the pollution this part of our review goes to the Department of Environmental Protection and they will raise their concerns if there are any.

Steve Konigsberg:

To *[Mr. Goldstein]* Comparing the size of this lot and the size of the structure, how does that compare percentage wise to other similar or other facilities run by the applicant which are drive through only.

Answer: *[Mr. Goldstein]* – This is a new thing that they are rolling out. The size of the property is very similar because it is just for preparation, staging and coffee making. The size of the lot is really what it is dictated by. This is a triangular lot, so the special permit requires that you have at least 10 reservoir spaces that's how you dictate how to layout your building and how big it can be.

In addition to coffee, what else will be provided?

Answer: *[Mr. Goldstein]* – They have cakes, sandwiches and different snack packaged options.

Solomon Davydov – To *[Mr. Goldstein]* You mentioned earlier that there will not be any walking traffic at all. Let's say if I park my car across the street, can I walk and buy a coffee or I can't?

Answer: *[Mr. Goldstein]* – Just to clarify that point, there won't be any interior space for patrons, there will be a window where you can walk-up and place an order, but you can't sit inside the store.

Zoning Chair Konigsberg asked for a motion.

Howard A. Fried made a motion to approve BSA Cal. No. 2021-59-BZ – 161-09 Union Turnpike for a special permit pursuant to ZR 73-243 to a Use Group 6 eating and drinking establishment with accessory drive-through service in a C1-2/R3-2 zoning district, seconded by Susan Cleary.

Discussion:

Kevin Forrestal – I think the process is a little backwards. Historically, several changes in the Department of Buildings, it used to be that you get the denial first and then go to BSA. It seems that this is not going on. I took a look of some pictures for parking in one lane and two lanes after

that, even if there are no standing signs, you'll have a lane for a block which will also create confusion. The history here is that the permits to remove the gas tags but there is a stop work order and there is no indication that there were any permits to remove the tags. I think they need to clarify if they are still there or not. I believe that the amount of traffic if it is, if it is run in perfection by the facility but if not you will get a fair amount of back up going into the street going to the Starbucks. At this time, I will not be able to vote in favor.

Steve Konigsberg – **Jatnna do we know if whether or not there have been some violations/complaints about the property that are open?**

Answer: [Ms. Reyes] – I personally haven't checked their profile on DOB, so I would not be able to tell you.

Jay Goldstein – **There have been complaints against the property for failure to maintain and that is what this owner is trying to rectify.**

Answer: [Steve Konigsberg] – Rectify failure to maintain by getting a multi-million-dollar tenant? You correct a failure to maintain by maintaining the property, cleaning up the graffiti, by making sure that is clean.

Answer: [Mr. Goldstein] – That's what we are here to do.

Answer: [Steve Konigsberg] – No, that is not what we are here for. That's what you go to the Department of Sanitation for.

Answer: [Mr. Goldstein] – I can go back to my client and bring up those concerns.

Answer: [Steve Konigsberg] – This is being a terrible eyesore and it has been a terrible eyesore as far as I can remember since when it was a gas station.

Steve Konigsberg – **I am not against this type of structure coming to this location and I am not against it becoming a productive and beautiful part of this neighborhood. At this point, I think we just haven't gone through the right steps.**

Answer: [Mr. Goldstein] – I don't disagree with you that this may be premature. The procedure is that we file with BSA and send the Community Board a copy. They have 60 days to comment. BSA doesn't give their comments within three or four months. A lot of these questions that are being raised will be addressed during the course of this application. I am happy to come back and give you that information.

Well, our timetable is after tonight's meeting. We are having our meeting early mid-November.

Answer: [Mr. Goldstein] – If by then, I'll have more answers, I am happy to forward them to you.

A roll call vote was taken.

Vote:

0 in favor 8 opposed 0 abstained

Board Members who voted in favor: None.

Board Members who voted against Susan Cleary, Edward Chung, Solomon Davydov, Kevin Forrestal, Howard A. Fried, Steven Konigsberg, Dilip Nath and Douglas Sherman.

Mr. Konigsberg thanked everyone for coming. He mentioned to both applicants if they are willing to give more information or any updates to the Board on November 10th, they may call the office and ask DM Adam-Ovide for speaking time.

Adjournment

This Public Hearing adjourned at 8:28 p.m.

*Respectfully submitted
Jatnna Reyes, CB8 Staff
November 4, 2021*