

**5-28-BZ**

APPLICANT – Eric Palatnik, P.C., for Steven Feldman, owner; Anwar Ismael, lessee.

SUBJECT – Application August 20, 2013 – Amendment (§11-413) of a previously approved variance which permitted the operation of an automotive service station (UG 16B). The amendment seeks to change the use to a car rental establishment (UG 8). R6 zoning district.

PREMISES AFFECTED – 664 New York Avenue, west side of New York Avenue, spanning the entire length of the block between Hawthorne Street and Winthrop Street, Block 4819, Lot 39, Borough of Brooklyn.

**COMMUNITY BOARD #9BK**

**ACTION OF THE BOARD** – Application granted on condition.

**THE VOTE TO GRANT** –

Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Otteley-Brown, Commissioner Hinkson and Commissioner Montanez .....5  
Negative:.....0

**THE RESOLUTION** –

WHEREAS, this is an application for a reopening and a change in use from an automobile repair station (Use Group 16) to an automobile rental establishment (Use Group 8); and

WHEREAS, a public hearing was held on this application on February 4, 2014, after due notice by publication in the *City Record*, with continued hearings on March 4, 2014 and April 1, 2014, and then to decision on April 29, 2014; and

WHEREAS, the premises and surrounding area had site and neighborhood examinations by Chair Srinivasan, Commission Hinkson, and Commissioner Montanez; and

WHEREAS, Community Board 9, Brooklyn, recommends approval of the application; and

WHEREAS, the subject site spans the west side of New York Avenue between Hawthorne Street and Winthrop Street, within an R6 zoning district; and

WHEREAS, the site has approximately 44 feet of frontage along Hawthorne Street, 212 feet of frontage along New York Avenue, approximately 35 feet of frontage along Winthrop Street, and 8,440 sq. ft. of lot area; and

WHEREAS, the site is occupied by a one-story building with approximately 1,733 sq. ft. of floor area (0.21 FAR); and

WHEREAS, on June 12, 1928, under the subject calendar number, the Board denied a variance to permit the construction of an automotive service station in a residence district; and

WHEREAS, on June 14, 1938, the Board granted an application to reopen the previously-denied variance application, and on September 27, 1938, the Board denied an amended version of the original variance application, which sought a variance to permit the construction of a gasoline service station in a business use

district; and

WHEREAS, on October 3, 1961, the Board reopened the application again and granted a variance to permit construction of a gasoline service station with lubritorium, minor auto repairs, non-automatic car wash, storage room, office and sales, parking and storage of motor vehicles, on a site partially within a retail use district and partially within a manufacturing use district; in addition, the Board authorized the construction of ground and wall signs within 75 feet of the nearby residence use district; and

WHEREAS, on October 30, 1962, the Board granted an extension of time to complete construction and obtain a certificate of occupancy; and

WHEREAS, the applicant represents that in 1986—when the current owner of the site purchased it from the City of New York—the site was changed from a gasoline service station to an automobile repair station and has operated continuously as “B & S Diagnostic” ever since; and

WHEREAS, the applicant now proposes to renovate the existing building to accommodate the proposed Use Group 8 automobile rental establishment; the establishment will be operated as an Enterprise Rent-a-Car and it will have 23 accessory parking spaces (18 storage spaces on the south side of the site and five spaces on the north side dedicated to returns); and

WHEREAS, the applicant states that the proposed hours of operation for the establishment will be Monday through Friday from 7:30 a.m. to 6:00 p.m., Saturday 9:00 a.m. to 12:00 p.m., and closed Sunday; and

WHEREAS, pursuant to ZR § 11-413, the Board may grant a request for a change in use from one non-conforming use to another non-conforming use which would be permitted under one of the provisions applicable to non-conforming uses as set forth in ZR §§ 52-31 to 52-36; and

WHEREAS, the applicant represents that its request for a change in use from a Use Group 16 use to a Use Group 8 use is consistent with ZR § 52-332(a) (*Change of Non-Conforming Use/Other buildings or structures in residence districts*), which allows for the conversion of non-conforming Use Group 16 to Use Group 8 use in residential zoning districts; and

WHEREAS, the applicant states that the change in use will not alter the essential character of the neighborhood, as a Use Group 16 use operated at the site for more than 50 years; as such, a non-conforming use at the site is well-established; and

WHEREAS, the applicant contends that the proposed Use Group 8 use will be less intense than the Use Group 16 automobile repair station and offer a much-needed service to an underserved neighborhood; and

WHEREAS, the applicant also states that while residences predominate in the surrounding community, large community facility buildings are located nearby, including Kings County Hospital, the NYC Office of

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the Chief Medical Examiner, the Kingsborough Psychiatric Center, and SUNY Downstate Medical Center; in addition, there are other automotive-related uses nearby, including a service station and a parking garage on adjacent blocks; and

WHEREAS, at hearing, the Board expressed concerns regarding: (1) the impact of the proposed use on traffic; (2) the lack of landscaping; (3) the excessive curb cuts; and (4) the proposed circulation of vehicles within the site; and

WHEREAS, in response, the applicant provided a traffic study, which reflects that the proposal will reduce the traffic from its current 48 trips-per-day to Enterprise Rent-A-Car's anticipated 37 trips-per-day, and an amended plan sheet depicting additional landscaped areas; and

WHEREAS, as to the landscaping, the applicant added plantings along Winthrop Street; and

WHEREAS, as to the excessive curb cuts, the applicant stated that the application seeks to legalize four existing curb cuts and eliminate the other two curb cuts; and

WHEREAS, as to vehicle circulation within the site, the applicant submitted a plan sheet, which reflects the traffic flow designed to allow maneuverability; 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 § 11-413.

*Therefore it is Resolved*, that the Board of Standards and Appeals *reopens* and *amends* the resolution, dated December 15, 1970, so that as amended this portion of the resolution shall read: "to permit a change in use from automobile service station (Use Group 16) to an automobile rental establishment (Use Group 8); *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 'Received April 4, 2014'-(6) sheets; and *on further condition*:

THAT the hours of operation will be limited to Monday through Friday from 7:30 a.m. to 6:00 p.m., Saturday 9:00 a.m. to 12:00 p.m., and closed Sunday;

THAT there will be no street parking of rental automobiles;

THAT lighting will be directed away from the adjoining residential buildings;

THAT the signage and landscaping will be in accordance with the BSA-approved plans;

**A true copy of resolution adopted by the Board of Standards and Appeals, April 29, 2014.**

**Printed in Bulletin Nos. 16-18, Vol. 99.**

**Copies Sent**

**To Applicant**

**Fire Com'r.**

**Borough Com'r.**

THAT the above conditions will be listed on the certificate of occupancy;

THAT all construction will be completed and a certificate of occupancy will be obtained by April 29, 2015;

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

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 29, 2014.

