

178-99-BZ

APPLICANT – Eric Palatnik, P.C., for Saltru Associates Joint Venture, owner.

SUBJECT – Application November 30, 2012 – Amendment (§§72-01 & 72-22) of a previously granted variance (§72-21) which permitted an enlargement of an existing non-conforming department store (UG 10A). The amendment seeks to replace an existing 7,502 sq. ft. building on the zoning lot with a new 34,626 sq. ft. building to be occupied by a department store (UG 10A) contrary to §42-12. M3-1 zoning district.

PREMISES AFFECTED – 8973/95 Bay Parkway, 1684 Shore Parkway, south side of Shore Parkway, 47/22' west of Bay Parkway, Block 6491, Lot 11, Borough of Brooklyn.

COMMUNITY BOARD #11BK

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez5
Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for a reopening and an amendment to a variance to permit a minor enlargement; and

WHEREAS, a public hearing was held on this application on February 11, 2014, after due notice by publication in The City Record, with continued hearings on March 25, 2014 and April 29, 2014, and then to decision on June 10, 2014; and

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

WHEREAS, Community Board 11, Brooklyn, recommends approval of this application; and

WHEREAS, the subject site is located on the southeast corner of the intersection of Bay Parkway and Shore Parkway, within an M3-1 zoning district; and

WHEREAS, the site fronts on Bay Parkway, Shore Parkway, and Gravesend Bay, and it has 692,110 sq. ft. of upland lot area and 136,982 sq. ft. of seaward lot area, for a total lot area of 829,110 sq. ft.; and

WHEREAS, the site is occupied by six commercial buildings (Buildings A, B, C, D, E, and F) with a total of 307,644 sq. ft. of floor area (0.44 FAR); large non-conforming retail stores (Use Groups 10 and 12) occupy 93 percent of the floor area (285,437 sq. ft.) three percent of the floor area (8,119 sq. ft.) is devoted to conforming uses, and four percent of the floor area (14,089 sq. ft.) is vacant; and

WHEREAS, the applicant represents that Building A is occupied by retail stores (Use Group 6), department stores (Use Group 10), and toy stores (Use Group 12),

Building B is occupied by retail stores (Use Group 6), Building C is occupied as an automotive service establishment (Use Groups 16 and 17), Building D is occupied by retail stores (Use Group 6), Building E is occupied by a bank (Use Group 6), and Building F is an accessory structure that contains a transformer; and

WHEREAS, the site has been under the Board's jurisdiction since February 8, 1977, when, under BSA Cal. No. 730-76-A, the Board granted the application of the Fire Commissioner to modify Certificate of Occupancy No. 197540 to require an automatic wet sprinkler system within Building A at the site; and

WHEREAS, subsequently, on June 7, 1983, under BSA Cal. No. 235-83-BZ, the Board granted a special permit for the operation of an amusement arcade Use Group 15A for a term of one year; on August 7, 1984, the Board extended the term of the grant; however, on April 8, 1986, the Board denied a request for an additional extension of term; the applicant states that the arcade no longer occupies any space at the site; and

WHEREAS, most recently, on June 27, 2000, under the subject calendar number, the Board granted a variance to permit the legalization of an enlargement of a non-conforming department store (Use Group 10) at Building A, contrary to ZR §§ 52-22 and 52-41; and

WHEREAS, the applicant now seeks to amend the grant to permit the demolition of Building C, which has 7,502 sq. ft. of floor area occupied as an automotive service establishment (Use Groups 16 and 17), and construction of a new two-story building with 34,626 sq. ft. of floor area to be occupied as a department store (Use Group 10A); and

WHEREAS, the applicant states that the proposal will result in a net increase in floor area from 307,644 sq. ft. (0.44 FAR) to 334,768 sq. ft. (0.47 FAR); the applicant notes that site is significantly underdeveloped (the maximum FAR is 2.0) and that even with the proposed increase in floor area of 0.03 FAR, the site is developed to less than 25 percent of its maximum floor area; and

WHEREAS, the applicant asserts that the unique physical conditions cited by the Board in its prior grant, including the topographic abnormalities and history of development of the site, remain and that the proposed enlargement is necessary for the owner to achieve a reasonable return; and

WHEREAS, in support of this assertion, the applicant submitted a financial analysis, which concluded that Building C could not be profitably used for conforming uses such as small, Use Group 6 retail stores, and that only another Use Group 10 retailer would be appropriate for the site given the site's M3-1 designation, its isolation from pedestrian traffic, and the predominant existing Use Group 10 and 12 retail use on the site; and

WHEREAS, turning to neighborhood impacts, the applicant asserts and the Board agrees that the construction of an additional Use Group 10 retailer at this

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site will have no negative impacts on the surrounding neighborhood; and

WHEREAS, at hearing, the Board directed the applicant to: (1) verify that the proposal complies with the applicable parking and loading requirements; and (2) examine, in consultation with the Department of Transportation ("DOT"), the potential traffic effects of the proposal upon the surrounding neighborhood; and

WHEREAS, in response, the applicant stated that the proposal complies in all respects with the applicable bulk regulations; and

WHEREAS, as to traffic, the applicant submitted a memorandum from DOT, which states that signal timing adjustments may be necessary to manage traffic surrounding site the during weekday evening and Saturday midday hours; and

WHEREAS, based upon its review of the record, the Board finds that the proposed elimination of term is appropriate, with certain conditions, as noted below.

Therefore it is Resolved, that the Board of Standards and Appeals *reopens* and *amends* the resolution, dated June 27, 2000, to permit the noted modifications, *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 November 25, 2013'-(6) sheets and 'April 11, 2014'-(1) sheet; and *on further condition*:

THAT the bulk parameters of the new Building C will be two stories and 34,626 sq. ft. of floor area;

THAT the floor area of the zoning lot will not exceed 334,768 sq. ft. (0.47 FAR);

THAT parking and loading will be as reviewed and approved by DOB;

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

THAT DOB must 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."

Adopted by the Board of Standards and Appeals, June 10, 2014.

A true copy of resolution adopted by the Board of Standards and Appeals, June 10, 2014.

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Copies Sent

To Applicant

Fire Com'r.

Borough Com'r.

