

56-14-BZ

APPLICANT – Walter Gorman, P.E.P.C., for Leemilts Petroleum Ink., owner; Capitol Petroleum Group, lessee.

SUBJECT – Application April 10, 2014 – Re-Instatement (§11-411) of a variance which permitted an auto service station (UG16B), with accessory uses; Waiver of the Rules. C1-3/R3-A zoning district.

PREMISES AFFECTED – 161-51/6 Bailey Boulevard, northwest corner of Guy Brewer Boulevard, Block 12256, Lot 36, Borough of Queens.

COMMUNITY BOARD #12Q

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 waiver of the Rules of Practice and Procedure and a reinstatement of a prior variance authorizing a gasoline service station (Use Group 16) contrary to use regulations; and

WHEREAS, a public hearing was held on this application on October 28, 2014, after due notice by publication in *The City Record*, with continued hearings on January 6, 2015 and March 10, 2015, and then to decision on March 31, 2015; and

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

WHEREAS, Community Board 12, Queens, recommends disapproval of this application; and

WHEREAS, the subject site is located on the northwest corner of the intersection of Guy R. Brewer Boulevard and Baisley Boulevard, within an R3A (C1-3) zoning district; and

WHEREAS, the site has 100 feet of frontage along Guy R. Brewer Boulevard, 87.28 feet of frontage along Baisley Boulevard, and approximately 9,342 sq. ft. of lot area; and

WHEREAS, the site is occupied by a one-story building with 1,800 sq. ft. of floor area (0.19 FAR); the building is occupied by a gasoline service station (Use Group 16); in addition, the site has parking for six automobiles; and

WHEREAS, the Board has exercised jurisdiction over the site since April 15, 1952, when, under BSA Cal. No. 782-51-BZ, it granted a variance authorizing the operation of a gasoline service station with accessory uses contrary to the use regulations of the 1916 Zoning Resolution, for a term of 15 years, to expire on April 15, 1967; this grant was amended at various times; its term last expired on January 31, 1977; and

WHEREAS, on May 16, 1989, under BSA Cal. No. 847-87-BZ, the Board reinstated the grant pursuant

to ZR § 11-411 and authorized the continued operation of the gasoline service station for a term of five years, to expire on May 16, 1994; and

WHEREAS, on September 19, 1995, the Board extended the term of the 1989 grant for ten years, to expire on May 16, 2004; and

WHEREAS, because the variance has been expired for more than ten years, the applicant requests a waiver of the Rules of Practice and Procedure and seeks reinstatement of the variance pursuant to ZR § 11-411; and

WHEREAS, pursuant to 2 RCNY § 1-07.3(b)(4), the Board may reinstate a use variance granted under the 1916 Zoning Resolution, provided that: (i) the use has been continuous since the expiration of term; (ii) substantial prejudice would result without such reinstatement; and (iii) the use permitted by the grant does not substantially impair the appropriate use and development of adjacent properties; and

WHEREAS, the applicant states that the use has been continuous at the site since the expiration of the term in 2004; in support of this statement, the applicant provided various records from Consolidated Edison, the New York Department of Environmental Protection, the New York State Department of State Division of Corporations, and New York City Department of Consumer Affairs; and

WHEREAS, the applicant asserts that substantial prejudice would result without the requested reinstatement of the variance, in that absent such reinstatement, the owner of the site will not be able to obtain a certificate of occupancy (“CO”) for the gasoline service station from the Department of Buildings; if the owner does not obtain a CO, it may be subject to violations from DOB and it may encounter difficulties in financing, leasing, or selling the site; and

WHEREAS, the applicant contends that the subject gasoline service station is compatible with the surrounding neighborhood and does not substantially impair the appropriate use and development of adjacent properties; and

WHEREAS, the applicant states that the service station is a long-standing business, upon which the neighborhood relies; the applicant notes that uses in the immediate area are commercial in nature, as reflected by the rezoning of the site subsequent to the 1995 grant from R3-2 to R3A (C1-3); the applicant also notes that the only site directly abutting the subject site (Lot 35) is owned and controlled by the owner of the subject site; and

WHEREAS, additionally, the applicant submitted a vehicle circulation plan, which demonstrates that the operation of the site will not negatively impact traffic in the neighborhood, and agreed to direct all lighting at the site downward and away from adjacent residential uses; and

WHEREAS, based on the applicant’s

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representations, the Board accepts the proposed application as a request for a reinstatement of a pre-1961 use variance; and

WHEREAS, at hearing, the Board directed the applicant to: (1) provide a security fence around adjacent Lot 35 (which the applicant states the owner of the subject site owns), remove all debris and vegetation from the lot, and install a security camera to monitor the lot; (2) provide additional landscaping along the northern boundary of the site; (3) remove all clothing donation bins from the site; (4) repair all fencing, including slats; and (5) remove all excessive signage from the site; and

WHEREAS, in response, the applicant provided photos depicting the construction of the requested security fence (including repair of the fence slats), the removal of all debris and vegetation from Lot 35, and the removal of the clothing bins and excessive signage from the site; in addition, the applicant submitted amended drawings depicting the additional landscaping, the security camera system, and all required fencing at the site; and

WHEREAS, based upon the above, the Board finds that the evidence in the record supports the findings required to be made under ZR § 11-411, and the requested reinstatement of the variance for a term of ten years is appropriate, with certain conditions as set forth below.

Therefore it is Resolved, that the Board of Standards and Appeals *waives* the Rules of Practice and Procedure, and, pursuant to ZR § 11-411, *reinstates* a previously-granted variance to permit, on a site located within an R3A (C1-3) zoning district, the operation of a gasoline service station (Use Group 16), contrary to use regulations; *on condition* that all work will substantially conform to plans, filed with this application marked 'Received February 20, 2015' – four (4) sheets; and *on further condition*:

THAT this grant shall be limited to a term of five years, to expire on March 31, 2020;

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

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

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

THAT there shall be no outdoor repairs;

THAT parking shall be limited to six passenger

automobiles;

THAT there shall be no truck parking and no parking on the sidewalk;

THAT lighting shall be directed downward and away from adjoining residences;

THAT the above conditions shall be noted in the certificate of occupancy;

THAT a certificate of occupancy shall be obtained by March 31, 2016;

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

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

THAT DOB shall ensure compliance with all other 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. (DOB Application No. 420932334)

Adopted by the Board of Standards and Appeals, March 31, 2015.

A true copy of resolution adopted by the Board of Standards and Appeals, March 31, 2015.

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Copies Sent

To Applicant

Fire Com'r.

Borough Com'r.

