

28-12-BZ

CEQR #12-BSA-075Q

APPLICANT – Eric Palatnik, P.C., for Gusmar Enterprises, LLC, owner.

SUBJECT – Application February 6, 2012 – Special Permit (§73-49) to legalize the required accessory off street rooftop parking on the roof of an existing two-story office building, contrary to ZR 44-11, and Special Permit (§73-44) to reduce required accessory off street parking for office use, contrary to ZR 44-20. M1-1 zoning district.

PREMISES AFFECTED – 13-15 37th Avenue, 13th Street and 14th Street, bound by 37th Avenue to the southwest, Block 350, Lot 36, Borough of Queens.

COMMUNITY BOARD #1Q

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Vice Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez4
Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Department of Buildings (“DOB”), dated December 26, 2013, acting on DOB Application No. 420349279, reads:

Legalization of existing rooftop parking contrary to ZR Section 44-11;

Proposed reduction in required accessory off-street parking for office use (Use Group 6, parking requirement category B1) is contrary to ZR Section 44-20; and

WHEREAS, this is an application under ZR §§ 73-03, 73-44 and 73-49 to legalize, on a site within an M1-1 zoning district, a reduction in the required number of accessory parking spaces for a one-story commercial building occupied by offices (Use Group 6), contrary to ZR § 44-20, and the location of 15 parking spaces on the rooftop of the building, contrary to ZR § 44-11; and

WHEREAS, a public hearing was held on this application on June 24, 2014, after due notice by publication in the *City Record*, and then to decision on July 29, 2014; and

WHEREAS, Community Board 1, Queens, recommends approval of this application; and

WHEREAS, the subject site is rectangular lot located on the north side of 37th Avenue between 13th Street and 14th Street, within an M1-1 zoning district; and

WHEREAS, the site has 75 feet of frontage along 37th Avenue and 7,512 sq. ft. of lot area; and

WHEREAS, the site is occupied by a one-story commercial building (Use Group 6) with 7,453 sq. ft. of floor area (0.99 FAR), five parking spaces in the cellar, and 15 parking spaces on the rooftop; and

WHEREAS, pursuant to ZR § 32-15, the subject Use Group 6 office is in parking requirement category

B1, which requires that one accessory parking space be provided for every 300 sq. ft. of floor area; thus, the existing Use Group 6 office floor area at the site generates 25 required accessory parking spaces, resulting in a parking deficit of five spaces; and

WHEREAS, pursuant to ZR § 73-44, the Board may, in the subject M1-1 zoning district, grant a special permit that would allow a reduction in the number of accessory off-street parking spaces required under the applicable Zoning Resolution provision, for Use Group 6 office use in the parking category B1; in the subject zoning district, the Board may reduce the required parking from one space per 300 sq. ft. of floor area to one space per 600 sq. ft. of floor area; and

WHEREAS, pursuant to ZR § 44-21 the total number of parking spaces that will be required in connection with the proposal is 25 spaces; thus, if the special permit is granted, only 13 parking spaces will be required; nevertheless, the applicant proposes 20 parking spaces; and

WHEREAS, pursuant to ZR § 73-44, the Board must determine that the Use Group 6 use in the B1 parking category is contemplated in good faith; and

WHEREAS, the applicant states that its good faith is demonstrated by the modesty of its request (a reduction of five spaces is requested where a reduction of 12 spaces is contemplated) and by the fact that the building is currently occupied as a Use Group 6 office; and

WHEREAS, the Board finds that the applicant has submitted sufficient evidence of good faith in maintaining the noted uses at the site; and

WHEREAS, in addition, the special permit under ZR § 73-44 requires and the applicant represents that any certificate of occupancy for the building will state that no subsequent certificate of occupancy may be issued if the use is changed to a use listed in parking category B unless additional accessory off-street parking spaces sufficient to meet such requirements are provided on the site or within the permitted off-street radius; and

WHEREAS, turning to the findings for ZR § 73-49, pursuant to that section, the Board may permit parking spaces to be located on the roof of a building if the Board finds that the roof parking is located so as not to impair the essential character or the future use or development of the adjacent areas; and

WHEREAS, the applicant represents that the rooftop parking will not impair the essential character or future use or development of adjacent areas and will not adversely affect the character of the surrounding area; and

WHEREAS, the applicant states that there are no residential uses immediately adjacent to the rooftop parking and that the nearby uses include an auto parts storage yard, a vacant lot, an office building with no windows facing the rooftop parking, and, across 37th

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Avenue, a public school (P.S. 111); and

WHEREAS, the applicant also notes that lighting for the rooftop parking is directed away from adjacent lots and that the site is operated Monday through Friday, from 7:00 a.m. to 6:00 p.m., and closed Saturday and Sunday; and

WHEREAS, at hearing, the Board directed the applicant to install additional safety measures in the parking lot; and

WHEREAS, in response, the applicant represents that bumpers will be installed; and

WHEREAS, accordingly, the Board finds that, under the conditions and safeguards imposed, any hazard or disadvantage to the community at large due to the proposed special permit uses is outweighed by the advantages to be derived by the community; and

WHEREAS, based upon its review of the record, the Board concludes that the findings required under ZR §§ 73-03, 73-44 and 73-49 have been met; and

WHEREAS, the project is classified as an unlisted action pursuant to 6 NYCRR, Part 617.2; and

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement CEQR No. 12-BSA-075Q, dated January 1, 2014; and

WHEREAS, the EAS documents that the project as proposed would not have significant adverse impacts on Land Use, Zoning, and Public Policy; Socioeconomic Conditions; Community Facilities and Services; Open Space; Shadows; Historic Resources; Urban Design and Visual Resources; Neighborhood Character; Natural Resources; Waterfront Revitalization Program; Infrastructure; Hazardous Materials; Solid Waste and Sanitation Services; Energy; Traffic and Parking; Transit and Pedestrians; Air Quality; Noise; and Public Health; and

WHEREAS, no other significant effects upon the environment that would require an Environmental Impact Statement are foreseeable; and

WHEREAS, the Board has determined that the proposed action will not have a significant adverse impact on the environment.

Therefore it is Resolved, that the Board of Standards and Appeals issues a Negative Declaration prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR

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

Printed in Bulletin No. 31, Vol. 99.

Copies Sent

To Applicant

Fire Com'r.

Borough Com'r.

Part 617 and §6-07(b) of the Rules of Procedure for City Environmental Quality Review and makes each and every one of the required findings under ZR §§ 73-03, 73-44 and 73-49 to legalize, on a site within an M1-1 zoning district, a reduction in the required number of accessory parking spaces for a one-story commercial building occupied by offices (Use Group 6), contrary to ZR § 44-20, and the location of 15 parking spaces on the rooftop of the building, contrary to ZR § 44-11; on condition that all work shall substantially conform to drawings as they apply to the objections above noted filed with this application marked "Received July 25, 2014"—seven (7) sheets, and on further condition:

THAT a maximum of 15 parking spaces will be provided on the rooftop;

THAT a minimum of 20 parking spaces will be provided at the site;

THAT all lighting on the roof will be directed down and away from adjacent uses;

THAT the rooftop parking will be screened from neighboring residences as per the BSA-approved plans;

THAT the site will be maintained safe and free of debris;

THAT there will be no change in the use of the site without prior review and approval by the Board;

THAT no certificate of occupancy may be issued if the use is changed to a use listed in parking category B unless additional accessory off-street parking spaces sufficient to meet such requirements are provided on the site or within the permitted off-street radius;

THAT the above conditions will appear on the certificate of occupancy;

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 must ensure compliance with all of applicable provisions of the Zoning Resolution, the 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, July 29, 2014.

