

156-02-BZ

APPLICANT – Herrick Feinstein Lullaby Jennifer Dickson, for 8021 15th Avenue Corp., owner; JP Morgan Chase & Co., lessee.

SUBJECT – Application August 1, 2013 – Extension of Term (§11-411) of an approved variance which permitted a car sales lot with accessory office and parking, which expired on August 5, 2013; Amendment (§11-413) to permit change in use to an accessory parking lot to an existing bank. R5B zoning district.

PREMISES AFFECTED – 964 65th Street, between Fort Hamilton Parkway and Tenth Avenue. Block 5750, Lot 49 (Tent 51). Borough of Brooklyn.

COMMUNITY BOARD #10BK

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Otley-Brown, Commissioner Hinkson and Commissioner Montanez5

Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for a reopening and a change in use from an automobile sales lot and accessory office (Use Group 16) to an accessory parking lot (Use Group 6); and

WHEREAS, a public hearing was held on this application on April 1, 2014, after due notice by publication in the *City Record*, with a continued hearing on March 25, 2014, and then to decision on May 6, 2014; and

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

WHEREAS, Community Board 10, Brooklyn, recommends approval of the application; and

WHEREAS, the subject site is an L-shaped lot located on 65th Street between Fort Hamilton Parkway and Tenth Avenue, within an R5B zoning district; and

WHEREAS, the site, which is vacant, has 80 feet of frontage along 65th Street and 8,400 sq. ft. of lot area; previously, the site was occupied by an accessory office building for an automobile sales business; and

WHEREAS, the site has been subject to the Board's jurisdiction since May 26, 1959, when under BSA Cal. No. 696-58-BZ, the Board legalized an existing automobile sales lot and accessory office, for a term of five years; the applicant notes that, historically, the site was operated in conjunction with an automobile sales business located on the adjacent site (Lot 49); and

WHEREAS, the grant was extended over the years, most recently on August 5, 2003, when, under the subject calendar number, the Board extended the term of the grant for ten years, to expire on August 5, 2013; and

WHEREAS, the applicant now proposes to extend the term of the variance for ten years and to construct a

parking lot with 14 spaces on the site to be used in conjunction with the Use Group 6 office (Chase Bank) that now occupies Lot 49; and

WHEREAS, pursuant to ZR § 11-411, the Board may extend the term of a use variance and, where appropriate, include such conditions and safeguards as are necessary to minimize the adverse effects of the such use on the character of the neighborhood; and

WHEREAS, pursuant to ZR § 11-413, the Board may permit 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 6 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 6 use in residential zoning districts; and

WHEREAS, the applicant states that the proposed change in use will not impair the essential character or future use or development of the surrounding area, as a Use Group 16 use operated at the site (in conjunction with the adjacent site) for more than 50 years and an accessory parking lot for a bank represents a significantly less intense non-conforming use; and

WHEREAS, the applicant also states that while residences generally predominate in the surrounding area, directly across from the site along 65th Street is a large retail store (Rite Aid), and Fort Hamilton Parkway, which is approximately one hundred feet from the site, is a heavily-trafficked thoroughfare with many automobile-oriented businesses and a variety of commercial and community facility uses; and

WHEREAS, likewise, the applicant contends that the proposed parking lot reduces the impact of the bank (a conforming use) on neighboring residential uses by helping to ensure that bank customers do not circle the block or park along the residential streets; and

WHEREAS, finally, the applicant notes that extensive landscaping and fencing will screen the site from adjacent residential uses; and

WHEREAS, at hearing, the Board requested clarification regarding the following: (1) the material of the proposed fence; (2) the signage of the site; and (3) the use of the parking lot when the bank is closed; and

WHEREAS, in response, the applicant submitted an amended plan noting the material of the proposed fence (which is existing and will remain) and providing specific information regarding the proposed signage for the site, including signs stating that the parking lot is restricted to bank patrons; and

WHEREAS, as to the use of the parking lot when the bank is closed, the applicant states that four parking spaces will be available 24 hours (for ATM usage) and

156-02-BZ

that a post-and-chain enclosure will restrict all other spaces; 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 §§ 11-411 and 11-413.

Therefore it is Resolved, that the Board of Standards and Appeals *reopens* and *amends* the resolution, dated August 5, 2003, so that as amended the resolution reads: "to a change in use from an automobile sales lot and accessory office (Use Group 16) to an accessory parking lot (Use Group 6); *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 21, 2014' - (1) sheet; and *on further condition*:

THAT the site will be restricted to accessory parking for the bank use on Lot 49;

THAT in the event that the use on Lot 49 changes, continued use of the site for accessory parking will be subject to the approval of the Board;

THAT parking at the site will be limited to patrons of the bank during bank hours, except for four parking spaces, which may remain open 24 hours per day, in accordance with the BSA-approved plans;

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;

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 May 6, 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, May 6, 2014.

A true copy of resolution adopted by the Board of Standards and Appeals, May 6, 2014.

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Copies Sent

To Applicant

Fire Com'r.

Borough Com'r.

