

81-13-BZ

APPLICANT – Nasir J. Khanzada, for Aqeel Klan, owner.

SUBJECT – Application February 28, 2013 – Re-Instatement (§11-411) of a variance which permitted an auto service station (UG16B), with accessory uses, which expired on November 6, 1992; Amendment (§11-413) to permit the change of use from auto service station to auto repair (UG 16B) with accessory auto sales; Waiver of the Rules. R2 zoning district.

PREMISES AFFECTED – 264-12 Hillside Avenue, Block 8794, Lot 22, Borough of Queens.

COMMUNITY BOARD # 13Q

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 waiver of the Rules of Practice and Procedure, a reopening, a reinstatement, a change in use, and an extension of term for the continued use of an automotive repair facility, which expired on November 6, 1992; and

WHEREAS, a public hearing was held on this application on July 9, 2013, after due notice by publication in *The City Record*, with continued hearings on October 29, 2013 and December 10, 2013, and then to decision on January 28, 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, the site is located at the northeast corner of Hillside Avenue and 265th Street within an R2 zoning district; and

WHEREAS, the site has 100 feet of frontage along Hillside Avenue, 100 feet of frontage along 265th Street, 10,000 sq. ft. of lot area, and is occupied by a one-story commercial building used for automotive repairs; and

WHEREAS, the Board has exercised jurisdiction over the subject site since January 11, 1958, when, under BSA Cal. No. 59-57-BZ, the Board granted a use variance to permit in a retail use district, the construction of a gasoline service station with office, sales, a lubritorium, car washing, minor auto repairs, parking and storage of motor vehicles within 75 feet of a residence use district; and

WHEREAS, the grant was subsequently amended at various times; most recently, on October 12, 1983, the Board granted an extension of term for ten years to expire on November 6, 1992; and

WHEREAS, the applicant now seeks to reinstate the variance granted under BSA Cal. No. 59-57-BZ; and

WHEREAS, the applicant does not propose to enlarge the existing building and proposes to make certain improvements to the site conditions and to provide the following uses: automotive repair (Use Group 16B) with accessory office, limited automotive sales, lubritorium, and hand washing; and

WHEREAS, the Board notes that, under its Rules, an applicant requesting reinstatement of a pre-1961 use variance must demonstrate that: (1) the use has been continuous since the expiration of the term; (2) substantial prejudice would result if reinstatement is not granted; and (3) the use permitted by the grant does not substantially impair the appropriate use and development of adjacent properties; and

WHEREAS, as to continuity, the applicant represents that, although the term expired in 1992, the automotive use has been continuous from 1957 to the present; in support of this representation, the applicant submitted documentation including a letter related to the gasoline service use from 1995 and the removal of the gasoline storage tanks in 2003, evidence of signage at the site, utility, and an affidavit from a neighbor noting observations of the existence of the use since 1996; and

WHEREAS, further, the applicant represents that substantial prejudice would result if reinstatement is not granted, because the site is occupied by an established business that would be required to cease operations; and

WHEREAS, as to the whether the existing use substantially impairs the appropriate use and development of adjacent properties, the applicant asserts that the garage has operated continuously at the site and has not increased in intensity since its establishment; further, the applicant notes that the historic building form has a peaked roof and brick façade, which is harmonious with the nearby residential character; and

WHEREAS, the applicant also asserts that the use of the site complies with all other findings related to its continued use: (1) the site has an area greater than 7,500 sq. ft.; (2) the facilities for lubrication and minor repairs are located within a completely enclosed building; (3) the site includes reservoir space for four autos awaiting repair as well as three employee parking spaces, one space for hand washing of autos, and two accessory car sales spaces; (4) the community is benefited by having a New York State inspection and auto repair facility; (5) by eliminating the gasoline service at the site, traffic in and out of the site has decreased; and (6) there is screening along lot lines shared with residential use; and

WHEREAS, at hearing, the Board raised concern about (1) the condition of the perimeter brick wall including the presence of graffiti; (2) the presence of temporary signs and excessive signage; (3) the insufficiency of plantings; and (4) the nature of the automotive sales; and

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WHEREAS, in response, the applicant provided (1) photographs reflecting the removal of graffiti; (2) the removal of temporary signage and other signage that was inconsistent with the original Board approval; (3) plans for the inclusion and maintenance of plantings; and (4) an explanation that the automotive sales use is limited and related to autos that have been repaired onsite and available for purchase; and

WHEREAS, the applicant states that there will be a total of three active employees on site and the hours of operation will be: Monday through Friday, 6:00 a.m. to 6:00 p.m.; Saturday, 10:00 a.m. to 5:00 p.m.; and Sunday, 10:00 a.m. to 1:00 p.m.; and

WHEREAS, pursuant to ZR § 11-411, the Board may permit an extension of term of an expired variance; and

WHEREAS, based on the applicant's representations, the Board finds that reinstatement of the subject variance is appropriate for a term of ten years is appropriate; and

Therefore it is Resolved, that the Board of Standards and Appeals issues a Type II determination under 6 NYCRR Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes each and every one of the required findings under ZR § 11-411 to permit, within an R2 zoning district, the reinstatement of a prior Board approval for an automotive service station at the subject site, *on condition* that any and all work will substantially conform to drawings as they apply to the objection above noted, filed with this application marked 'Received January 14, 2014' - (3) sheets; and *on further condition*:

THAT the term of this grant will be for ten years, to expire on January 28, 2024;

THAT the layout of the site and the landscaping will be as reflected on the BSA-approved plans;

THAT the hours of operation will be limited to Monday through Friday, 6:00 a.m. to 6:00 p.m.; Saturday, 10:00 a.m. to 5:00 p.m.; and Sunday, 10:00 a.m. to 1:00 p.m.;

THAT signage will not exceed that reflected on the BS-approved plans;

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

THAT the number of automobiles parked on the site will be limited to those reflected on the BSA-approved plans;

A true copy of resolution adopted by the Board of Standards and Appeals, January 28, 2014.

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Copies Sent

To Applicant

Fire Com'r.

Borough Com'r.

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

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

THAT DOB must 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. 420551922)

Adopted by the Board of Standards and Appeals, January 28, 2014.

