



Chairperson, Martha Taylor

*The City of New York
Borough of Queens*

Community Board 8

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District Manager, Marie Adam-Ovide

PUBLIC HEARING:

**BSA Cal. No. 677-53-BZ
61-28 Fresh Meadow Lane
Flushing, New York**

DATE:

Monday, December 19, 2016

PLACE:

**Hillside Manor
188-11 Hillside Avenue
Hollis, New York**

ATTENDANCE:

**Steven Konigsberg, Zoning Committee Chair
Jagir Singh Bains, Area 4 Chair
Edward Chung, Board Member
Kevin Forrestal, Board Member
James Gallagher Jr., Board Member**

Others in attendance:

**Eleanore Martins, Esq. Applicant Representative –
Akerman LLP
James Marchetti, Owner – Carriage House Collision
Andy Sepe, Manager – Carriage House Collision
Marie Adam Ovide, CB 8 District Manager
Jatnna Reyes, CB8 Staff Member**

Purpose of Public Hearing

This application seeks: (1) an extension of term of a variance to permit the continued operation of a Use Group 16 Auto Body Repair Shop (*Carriage House Collision*) at 61-28 Fresh Meadow Lane with incidental painting and spraying, which expired on October 18, 2016 and (2) an extension of time to obtain a Certificate of Occupancy, which expired on October 18, 2016.

Zoning Chairperson Steven Konigsberg called this Public Hearing to order at 7:30 p.m. He introduced the Board Members present and explained the rules governing the Hearing. There were 5 Board Members present; therefore, there was not a quorum. A vote will be taken by the full Board at the Community Board Meeting on January 11, 2017 at the Hillcrest Jewish Center, located at 183-02 Union Turnpike at 7:30 p.m.

Public Participation

There was no public participation for this application.

Zoning Chairperson Steven Konigsberg introduced Eleanore Martins, representing the owner (James Marchetti) of the above premises.

Presentation by applicant, represented by Eleanore Martins

This is an application for an extension of term of a previously granted variance, originally granted in 1954 for the first time. Over 60 years they have been operating under the Board of Standards and Appeal (BSA) variance. It is a Use Group 16 Auto Body Repair Shop known as Carriage House Collision on Fresh Meadow Lane between Horace Harding Expressway and 65th Avenue. This application seeks a 10-year extension of term which expired this past October. We are also requesting an extension of time to obtain a Certificate of Occupancy (C of O) reflecting the new term. The application does not seek any amendments or modifications of the variance, simply to continue the use as it currently exists. I have Mr. James Marchetti here with me tonight. He is the owner of the premises if you have any questions for him. I understand that there are some concerns about parking on the sidewalk which we can address here tonight. There is a Dunkin Donuts that opened next door which has created a serious traffic issue in the vicinity. Mr. Marchetti will tell you that they do not park any of their own cars on the sidewalk but we are happy to address any concerns the Board and the community members may have.

Zoning Chairperson Konigsberg asked Ms. Martins if there is anything else she would like to add in support to the application.

Ms. Martins stated that this is an establishment in a very commercial block and they hope the Board will continue to let them operate with the extension of term of the variance for an additional 10 years.

Steven Konigsberg –

I will begin by asking you if you could please take a look at these pictures that I am about to hand you. They were received from neighbors in the community. They are dated and rather descriptive pictures. The main issue here is parking in the neighborhood, which you said is caused by another business creating difficulties. Do you know when the Dunkin Donuts opened in the neighborhood?

Answer: *[James Marchetti]* – Probably 15 years ago.

So it is not a new issue?

Answer: *[Eleanore Martins]* – No, it is not a new issue. I think the parking conditions, like no parking restrictions on either side of the road, create an issue as well.

What issue did it create? Your client has a business, the law requires him to park his vehicles on his property as with the previous variances.

Answer: *[Eleanore Martins]* – Yes, absolutely agree with that.

So can you address what these picture show in contrast to the requirements?

Answer: *[Eleanore Martins]* – Can I just take a second to look at them with the applicant?

Sure.

Answer: *[Eleanore Martins]* – There are a lot of pictures here. I think several of them are on 65th Avenue which does not have parking restrictions.

Andy Sepe (Manager of Carriage House Collision) –

I can speak about some of these pictures. I am looking at the picture from December 14, 2016 (1 of 3) which is actually a car that we towed into a Tow Program with the City.

Steven Konigsberg –

What are the hours of operation for the business sir?

Answer: *[Andy Sepe]* – For towing it is 7/24 [7 days a week/24 hours a day].

I asked what the operation hours of the business is, for Carriage House Collision.

Answer: *[Andy Sepe]* – 8:00 a.m. to 5:00 p.m.

These pictures shows that the time the tow truck is parked there is 7:00 a.m.

Answer: *[Andy Sepe]* – This was brought in the night before.

So the car was there all night?

Answer: *[Andy Sepe]* – Cars are brought in. Once the office opens up the drivers bring the cars from the tow truck inside the property.

So this vehicle was parked on 65th Avenue from some time in the evening before this picture was taken?

Answer: *[Andy Sepe]* – It could have been from 6:00 a.m. in the morning. I don't know the exact time.

Do you know what kind of license plates the truck has?

Answer: *[Andy Sepe]* – Tow truck license.

Are tow trucks supposed to be parked on public streets?

Answer: *[Eleanore Martins]* – We can confirm if there is a restriction on tow trucks parking in the street.

How long has your client been in the tow truck business?

Answer: *[James Marchetti]* – 30 Years.

And now you have to confirm if whether or not it is legal to park tow trucks on a public street?

Answer: *[James Marchetti]* – I don't think we've ever gotten one ticket.

Answer: *[Andy Sepe]* – We never had any problem.

I didn't ask you if you ever got a ticket Sir. Thirty years in the business and you do not know whether or not it is legal to park a tow truck on a New York City public street? You can't answer that question?

Answer: *[James Marchetti]* – Not truthfully.

You don't know the answer?

Answer: *[Andy Sepe]* – We don't know the answer.

Would you like to address any of these other pictures?

Answer: *[Eleanore Martins]* – Almost all of them show more conditions where there are tow trucks parked on the street where Carriage House Collision believes there are no parking restrictions that would make it illegal.

Answer: *[Andy Sepe]* – The one from September 2016, parked near the crosswalk. The customer came and paid for the car towed it away and left it there. It is out of our control when somebody pays for the vehicle and let it sit there. All the other ones with the tow trucks are ours. Also on the last page, the one with the expired tag on 65th Avenue and 175th Street, I have no idea what would that is. People in the neighborhood have cars and abandon them.

On the page before the last page, the bottom half shows a vehicle that looks like it says "Carriage House Collision" and the comment below the picture states, "September 2016 parked near crosswalk over 2 weeks, flat tire. School Bus had to maneuver twice to make right turn from 175th Street to 65th Avenue". Do you know anything about this?

Answer: *[Andy Sepe]* – I don't think that truck is anywhere near a corner. I think, is at minimum 30 feet away from a crosswalk.

Answer: *[James Marchetti]* – It is not a problem to fix this problem.

Answer: *[Eleanore Martins]* – I think what Carriage House would like to do is make sure that the Community Board is comfortable with having them operate the auto body repair business. There is going to be tow truck activity, cars being parked and also customers who may or may not be good neighbors in the community. A lot of these objections are things that appear perfectly legal. We

would like to respond to the Community Board, in writing if that's acceptable. We would like to work with you to make sure that there is a way that the business keeps operating as it has been for over 60 years.

Zoning Chairperson Konigsberg opened the floor for questions from the Board Members.

Questions by the Board Members:

Kevin Forrestal:

About 10 years ago we heard a similar situation with your business. This is not a new problem. If you would like to continue to operate the business the way you're doing it, you're going to be a bad neighbor because that is your history, as far as the neighbors are concerned. You also said that you filed timely. I don't think this is the issue but I would take into exception that if your variance has expired, your C of O has expired, you haven't filed timely.

Answer: *[Eleanore Martins]* – We filed timely according to the Board of Standards and Appeal rules which is within 30 days after it expires.

There is a pending legislation to actually give notification. The BSA gives you advance notice for you to compile all the documents done before hand, compared to some other things in the past where we have people coming 10 years later. It is not timely when you have an expired requirement.

Answer: *[Eleanore Martins]* – Understood. In a timely manner meaning that we didn't have to seek a waiver from the Board. We filed under the permitted filing period. I understand that the conditions of the Board from the last approval was to not have parking on the sidewalks and some other restrictions. Some of these issues are hard to resolve technically. It is a tow truck company parking in the street in parking spaces. If there is a way the neighbors could let the business continue operating, I think it is something you guys [the Board] should look into.

I think you will find that under the law you cannot park commercial vehicles anywhere in that location legally. Making that assumption, I would like to hear also in your response what your plan of correction will be. If you can't park in the street surrounding it, how are you going to park these trucks? If I have an accident going home, my car is going to go someplace. If it goes to your business, you don't have a place to store the vehicles.

Answer: *[James Marchetti]* – We have a place. We have parking. The problem is that trucks are moving constantly but in reality three of these trucks don't need to be in service right now. We can bring it down to two and have parking for two.

If you can explain exactly how you will do that that would be great.

Answer: *[James Marchetti]* – I own other buildings. I can put the three trucks in other buildings that way I will only have two. During the night we have spots to put these two trucks.

Why haven't you done this in the past?

Answer: *[James Marchetti]* – Nobody has ever asked us to.

We asked 10 years ago.

Steven Konigsberg –

At the time of the last variance extension this was a topic of discussion.

Answer: *[James Marchetti]* – I don't know to be honest. I didn't handle it last time.

Steven Konigsberg –

Kevin is there anything else?

Answer: *[Kevin Forrestal]* – No, that is all.

Jagir Singh Bains –

This is not a new issue. This issue was brought 10 years ago and there is still no progress. You keep parking trucks in a public street and it is inconvenient for the people in the neighborhood who are unable to park.

Answer: *[Eleanore Martins]* – It will be different this time. We will come up with a plan. We will not park in that intersection where the school buses park.

You stated that you have your own parking. How many parking spots do you have?

Answer: *[James Marchetti]* – We have about 50 spots.

You do not have the parking to park your own vehicles?

Answer: *[James Marchetti]* – I can make an arrangement with the gas station next door to us to park the two trucks there. When I say something I mean it. This problem will be fixed tomorrow.

Eleanore Martins –

We will provide something in writing to the Community Board which will address the issues that were brought up here today.

James Gallagher Jr. –

The Community is very upset with what you are doing with the tow trucks.

Answer: *[James Marchetti]* – I'll fix it.

Even the principal of the school sent me an email today. He said, "Here are additional pictures taken this morning. There are 1,400 students who go to Ryan. They do this all the time and worse. Thank you for alerting me of the variance meeting". Unfortunately he couldn't be here, otherwise he would have testified. I received emails from many civic leaders in that community very upset with this situation.

Answer: *[James Marchetti]* – All he had to do was call me.

The community is very upset and they want them removed as soon as possible.

Answer: *[James Marchetti]* – That's not a problem. All he had to do was call me. The problem would have been fixed then.

Edward Chung –

I know this gentleman before, this is where I take my car. I don't know if I should be objective or not. I am sure that what he said if the people would've called him he would have taken care of the problem.

Kevin Forrestal –

To *[Eleanore Martins]* you said you are going back and check the law and come up with a plan. How do we vote tonight? Based upon incomplete answers.

Answer: *[Eleanore Martins]* - I would ask that you vote to approve on condition that we provide satisfactory response to your concerns regarding parking and providing plans to address this issue.

To *[Steven Konigsberg]* do we have a timeline when we have to vote?

Steven Konigsberg –

This will go to the full Board on January 11, 2017.

Kevin Forrestal –

Do we have enough time for the variance requirement?

Steven Konigsberg –

The timeline includes going up to the next Board Meeting in January.

James Marchetti –

This problem will be fixed tomorrow by me. If there is a problem you can just pick up the phone and call me.

Steven Konigsberg –

I hope you understand that the Principal of the school in the neighborhood is quite busy attending to what he needs to do and for him to have to pick up the phone to call you to address parking problems is something they shouldn't have to do to begin with.

Answer: *[James Marchetti]* – He has never said anything to me. If he would have come to me or called me I would have addressed the issue.

Kevin Forrestal –

Are you the sole owner?

Answer: *[James Marchetti]* – Yes.

Okay, so whatever was said 10 years ago still rests with you? Even if you weren't the one handling it?

Answer: *[James Marchetti]* – I didn't handle it 10 years ago. I didn't come to the meeting so what was said I can't give you an honest answer. I am here now and I could tell you that this problem will be fixed tomorrow.

Steven Konigsberg –

For the record, on April 22, 2010, Rothkrug Rothkrug & Spector, came to the Board on behalf of James Marchetti the owner. Everything done at that meeting is something that you are obligated to comply with and have knowledge of Sir.

Kevin Forrestal –

To *[Eleanore Martins]* what is your role?

Answer: *[Eleanore Martins]* – I am Nora from Akerman. I'm with the land use council.

So you're an attorney?

Answer: *[Eleanore Martins]* – Yes. We did not represent Carriage House last time. Unfortunately, as a land use attorney I don't know parking regulations so well, so that's why I'll have to verify.

James Gallagher Jr. –

You have stated that you have another location to park the cars. Can you tell us the address of that property?

Answer: *[James Marchetti]* – It's in Deer Park.

In one of the pictures that we have here it states that there was a fire on a flatbed next to the school yard at Ryan at 8:30 a.m. A security guard went to Carriage House Collision to notify you about the fire. So definitely you guys have been in contact with the school.

Answer: *[James Marchetti]* – With the security guard, yes. That car didn't actually go on fire. That car was brought in from a fire.

We have been getting a lot of complaints from leaking gasoline from cars too.

Answer: *[Eleanore Martins]* – I think this issue will be solved once we remove those trucks from the street.

Steven Konigsberg –

Just to follow-up on one of the things Mr. Gallagher mentioned and your comment was that the vehicle did not actually catch on fire. The picture here shows about six firefighters in front of the car.

Answer: *[James Marchetti]* – It came in from a fire and we towed it in.

So the car came in on fire?

Answer: *[James Marchetti]* – We got the car around 5:00 a.m. and in the morning there was smoke coming out of the car so they had to come.

So there was a fire there?

Answer: *[James Marchetti]* – Not really. It was just smoke.

Sir when there is smoke, there is fire.

Committee Discussion:

Steven Konigsberg –

Mr. Konigsberg stated that before making a motion we should discuss this matter for a moment. As they usually do they make motions on the positive in favor of the application. As Ms. Martins mentioned they can approve the variance with certain conditions which will be pre-existing BSA resolution conditions for the granting of the variance and the extension of the variance as well as the time to obtain the Certificate of Occupancy. The motion will be proposed as follows:

- 1. The applicant must comply with all on street as well as off street parking restrictions for the vehicles that are part of this business or any vehicles that are brought by customers and left there as a condition of the variance meaning in essence that if you are allowed three hour street parking for commercial vehicles or tow trucks vehicles, but everything overnight is not allowed. This would address the issue of the parking of tow trucks.**

Mr. Konigsberg asked if anybody else would like to add something else to this motion.

Kevin Forrestal –

Mr. Forrestal suggested that the extension of the variance is for one year. So that they can prove that they will stay within compliance based upon their past history with the understanding that after one year they will look at another application to see if there has been compliance with all the applicable laws.

Answer: *[Steven Konigsberg]* – I don't have an issue with that. Any other comments?

Jagir Sing Bains –

What about something from the employees, to make sure that the employees also know these regulations?

Answer: *[Steven Konigsberg]* – Well if the owner complies with any applicable parking regulations. Whoever the owner employs is someone who is obligated to comply with those regulations as well.

Kevin Forrestal –

To [Mr. Marchetti] do you have trucks coming in that aren't yours?

Answer: *[James Marchetti]* – No.

Steven Konigsberg –

The school will have the kids being dropped off prior to the 8:00 a.m. opening. The only other times where there will be school buses in the area that will have some difficulty maneuvering will be the 2:30 p.m. to 3:00 p.m., dismissal time. The applicant's representative did mention parking at a certain distance from any intersection to minimize any difficulty that the school buses may have maneuvering.

Answer: *[James Marchetti]* – We don't park on the block where they drop off kids. I only raised that because I believe that was one of the comments from the Principal of the school.

Answer: *[James Marchetti]* – We don't park on that side of the street.

That being the case, are there any other comments on how we are going to propose this motion?

James Gallagher Jr. –

There is a picture here where the cars are parked on 175th Street where you have houses right across the street.

Answer: *[Andy Sepe]* – That is the car that the customers came and paid for and left it there. It is not there anymore.

You have one tow truck without license plates and it has a flat tire. It is parked on the south side of 175th Street and 65th Avenue.

Answer: *[James Marchetti]* – I'm going to remove them all. If I would have known this was an issue, I would have solved it. This is not an issue. This will be taken care of by tomorrow.

Steven Konigsberg –

Mr. Konigsberg suggested that Mr. Marchetti provides a contact number where he can be reached by the Principal of the school so that they keep in contact.

James Marchetti –

Mr. Marchetti stated that he will reach out to the Principal of the school himself tomorrow.

Kevin Forrestal made a motion to accept BSA Cal. No. 677-53-BZ, 61-28 Fresh Meadow Lane, to extend the variance for a period of one year and the understanding that the owner strictly adhere all the parking regulations stipulated by the City of New York and that the owner will provide a plan in writing to address the parking situation, seconded by Jagir Singh Bains.

Vote:

5 in favor

0 opposed

Board Members who voted in favor: Jagir Singh Bains, Edward Chung, Kevin Forrestal, James Gallagher Jr. and Steven Konigsberg.

Board Members who voted against: None

The motion was passed unanimously

Adjournment

This Public Hearing adjourned at 8:08 p.m.

*Respectfully submitted
Jatnna Reyes, CB8 Staff
December 29, 2016*