

**\*CORRECTION**

**The resolution adopted on July 22, 2014, under Calendar No. 775-85-BZ and printed in Volume 99, Bulletin No. 30, is hereby corrected to read as follows:**

**775-85-BZ**

APPLICANT – Sheldon Lobel, P.C., for Ivy Cross Island Plaza, owner.

SUBJECT – Application December 18, 2013 – Extension of Term of a previously approved Variance (§72-21) which permitted the construction of a three-story office building, contrary to permitted height and use regulations, which expired on February 24, 2012; Amendment to modify the parking layout, eliminate buffering and eliminate the term; Waiver of the Rules. C1-3/R2 and R2 zoning district.

PREMISES AFFECTED – 133-33 Brookville Boulevard, triangular lot with frontages on Brookville Boulevard, Merrick Boulevard, 133rd Avenue and 243rd Street, Block 12980, Lot 1, Borough of Queens.

**COMMUNITY BOARD #13Q**

**ACTION OF THE BOARD** – Application granted on condition.

**THE VOTE TO GRANT** –

Affirmative: Vice Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez .....4

Negative:.....0

**THE RESOLUTION** –

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure, a reopening, and an amendment to permit: (1) the continued operation, without a term, of an office building (Use Group 6) on a site partially within R2 zoning district and partially within an R2 (C1-3) zoning district; (2) certain site modifications, including the elimination of buffering; and (3) the elimination of the hours of operation restriction; and

WHEREAS, a public hearing was held on this application on May 20, 2014, after due notice by publication in *The City Record*, with a continued hearing on June 17, 2014, and then to decision on July 22, 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, Community Board 13, Queens, recommends approval of this application; and

WHEREAS, the subject site is an irregularly-shaped lot with frontages along 133rd Avenue (248 feet), 243rd Street (51 feet), Brookville Boulevard (590 feet) and Merrick Boulevard (780 feet); and

WHEREAS, the site is located partially within R2 zoning district and partially within an R2 (C1-3) zoning

district; historically, the R2 (C1-3) portion of the site was zoned R2 (C2-1); and

WHEREAS, the site has approximately 181,531 sq. ft. of lot area and is occupied by a three-story commercial building with 222,285 sq. ft. of floor area (1.22 FAR) and 245 unattended parking spaces; and

WHEREAS, the Board has exercised jurisdiction over the site since February 24, 1987, when, under the subject calendar number, the Board granted a variance to permit, on a site partially within an R2 zoning district and partially within an R2 (C2-1) zoning district, the construction of a three-story office building utilizing an existing steel skeleton, which exceeded the maximum permitted height and did not comply with the use regulations, for a term of 25 years, to expire on February 24, 2012; in addition, 286 attended parking spaces were permitted under the grant as accessory to the office use; and

WHEREAS, the applicant states that, at the time of the grant, the northeast portion of the subject block (Tax Lots 45, 47, 49, 51, 53, 57, and 58, hereafter known as the “Outparcels”) was occupied with homes; subsequent to the grant, the homes were demolished and the subject site’s parking lot was expanded, increasing the number of spaces in the parking lot to approximately 420 (245 spaces on the site, 82 spaces in the R2 (C1-3) portion of the Outparcels, and 93 spaces in the R2 portion of the Outparcels); the applicant notes that although the owner of the subject site owns the Outparcels, they remain separate tax and zoning lots; and

WHEREAS, the applicant now requests an amendment to permit the following changes to the grant: (1) elimination of the 25-year term; (2) reduction in the number of parking spaces at the site, from 286 attended spaces, to 245 unattended spaces; (3) elimination of the buffering requirement between the site and the Outparcels; and (4) elimination of the hours of operation restriction, which limits the use of the building to Monday through Saturday, from 8:00 a.m. to 6:00 p.m.; and

WHEREAS, as to the term, the applicant contends that a variance term on a building of this scale presents an undue hardship on the owner’s ability to conduct normal business in the commercial real estate market, in that it creates uncertainty with respect to both leasing and financing; and

WHEREAS, as to the reduction in the number of parking spaces, the applicant states that although the number of spaces at the subject site is reduced, the number of available spaces for the uses in the building has increased by 175 spaces, owing to the use of the Outparcels for additional parking; and

WHEREAS, as to the elimination of buffering, the applicant states that buffering is unnecessary given the demolition of the homes on the Outparcels and their current use as parking for the subject building; and

WHEREAS, finally, as to the elimination of the

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hours of operation, the applicant states that requiring all office workers at the building to adhere to a strict 8:00 a.m. to 6:00 p.m. schedule is impractical for a building of this size with this diversity of tenants; likewise, the limitation is unnecessary, since the Outparcels no longer contain residential uses and the entire block is devoted office uses and buffered from nearby residential uses by streets; and

WHEREAS, pursuant to ZR §§ 72-01 and 72-22, the Board may extend the term of a variance; and

WHEREAS, at hearing, the Board directed the applicant to: (1) notify the surrounding neighbors of the request to eliminate the term; (2) enhance the landscaping around the perimeter of the site; and (3) provide information on the lighting of the parking lot; and

WHEREAS, in response, the applicant submitted proof that the tenants were notified and an amended site plan, which indicates that 16 street trees will be provided along 133rd Avenue, as well as a four- to six-foot uniform hedge barrier along 133rd Avenue and 243rd Street; and

WHEREAS, in addition, the applicant states that parking lot lights are directed downward and away from residential uses and are on timers, which adjust for different seasons; and

WHEREAS, the Board has reviewed the application and has determined that this application is appropriate to grant, with certain conditions.

*Therefore it is Resolved*, that the Board of Standards and Appeals waives the Rules of Practice and Procedure, reopens and amends the resolution, as adopted on February 24, 1987, to permit the noted modifications, including the elimination of the term and the elimination of the restrictions on the hours of operation, *on condition* that all work will substantially conform to drawings as they apply to the objections above-noted, filed with this application and marked 'Received July 8, 2014' - six (6) sheets; and *on further condition*:

THAT a minimum of 245 unattended parking spaces will be provided at the site;

THAT lighting will be directed down and away from residential uses;

THAT the site plan will be in accordance with the BSA-approved plans;

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

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed

**A true copy of resolution adopted by the Board of Standards and Appeals, July 22, 2014.**

**Printed in Bulletin No. 30, Vol. 99.**

**Copies Sent**

**To Applicant**

**Fire Com'r.**

**Borough Com'r.**

DOB/other jurisdiction objection(s); 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."

Adopted by the Board of Standards and Appeals, July 22, 2014.

\*The resolution has been amended in part of the 10<sup>th</sup> WHEREAS, to add the number "8" in the section which **read:** ...*Monday through Saturday, from :00 a.m. to 6:00 p.m.; and. Now reads:* ...*Monday through Saturday, from 8:00 a.m. to 6:00 p.m.; and. Corrected in Bulletin No. 31, Vo. 99, dated August 6, 2014.*

