

406-82-BZ

APPLICANT – Eric Palatnik, P.C., for Adolf Clause & Theodore Thomas, owner; Hendel Products, lessee.

SUBJECT – Application August 13, 2013 – Extension of term of a special permit (§73-243) allowing an eating and drinking establishment (*McDonald's*) with accessory drive-thru which expired on January 18, 2013; Extension of time to obtain a Certificate of Occupancy which expired on September 11, 2013; Waiver of the Rules. C1-3/R5 zoning district.

PREMISES AFFECTED – 2411 86th Street, northeast corner of 24th Avenue and 86th Street, Block 6859, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #11BK

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, an extension of term for an accessory drive-through, which expired on January 18, 2013, and an extension of time to obtain a certificate of occupancy, which expired on September 11, 2013; and

WHEREAS, a public hearing was held on this application on December 17, 2013, after due notice by publication in *The City Record*, with a continued hearing on January 28, 2014, and then to decision on February 11, 2014; and

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

WHEREAS, the site is located on the northeast corner of 24th Avenue and 86th Street, within a C1-3 (R5) zoning district; and

WHEREAS, the site is operated as a McDonald's eating and drinking establishment (Use Group 6); and

WHEREAS, on January 18, 1983, under the subject calendar number, the Board adopted a resolution granting a special permit for the installation of an accessory drive-through facility for an existing eating and drinking establishment, for a term of five years; and

WHEREAS, the special permit was subsequently extended and amended at various times; and

WHEREAS, on July 22, 2008, the Board granted a five-year extension of term, which expired on January 18, 2013; a condition of the grant was that a certificate of occupancy be obtained by January 22, 2009; however, on September 11, 2012, the Board granted a one-year extension of time to obtain a certificate of occupancy, which expired on September 11, 2013; and

WHEREAS, the applicant now seeks an extension of term and an extension of time to obtain a new certificate of occupancy; and

WHEREAS, the applicant states that a certificate of occupancy has not yet been obtained due to open applications and open violations at DOB; and

A true copy of resolution adopted by the Board of Standards and Appeals, February 11, 2014.

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Copies Sent

To Applicant

Fire Com'r.

Borough Com'r.

WHEREAS, at hearing, the Board questioned whether the signage at the site is in compliance with C1 district regulations and directed the applicant to clarify the restaurant's hours of operation, as well as the status of open DOB violations at the site; and

WHEREAS, as to the signage, the applicant explained that directional signage is excluded from the signage calculations, per the ZR § 12-10 definition of "sign"; and

WHEREAS, as to the hours of operation, the applicant provided a letter from McDonald's, which indicates that the hours of operations are Sunday through Thursday, from 6:00 a.m. to 12:00 a.m., and Friday and Saturday from 6:00 a.m. to 1:00 a.m.; and

WHEREAS, as to the open violations, the applicant provided a certification from its architect, which indicates that the open violations relate to the expired special permit and will be resolved immediately subsequent to the renewal of the grant; and

WHEREAS, based upon its review of the record, the Board finds that the proposed extension of term and extension of time to obtain a certificate of occupancy are appropriate with certain conditions as set forth below.

Therefore it is Resolved, that the Board of Standards and Appeals *waives* the Rules of Practice and Procedure, *reopens* and *amends* the resolution, dated January 18, 1983, so that as amended this portion of the resolution reads: "to permit an extension of the term of the special permit for an additional five years, to expire on February 11, 2019, and an extension of six months to obtain a certificate of occupancy, to expire on August 11, 2014; *on condition* that all work shall substantially conform to drawings as they apply to the objections above-noted, filed with this application and marked 'Received January 14, 2014' - six (6) sheets; and *on further condition*:

THAT the grant will expire on February 11, 2019;
THAT signage will comply with the C1 regulations;

THAT directional signage will be limited to a total of 12 sq. ft., per the ZR § 12-10 definition of "sign";

THAT the above condition and all relevant conditions from prior grants will appear on the certificate of occupancy; and

THAT a certificate of occupancy will be obtained by August 11, 2014;

THAT all conditions from the prior resolution not specifically waived 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 DOB/other jurisdiction objection(s) only; 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. 310120142)

Adopted by the Board of Standards and Appeals, February 11, 2014.

