

186-96-BZ

APPLICANT – Rothkrug Rothkrug & Spector LLP, for Edward Ivy, owner.

SUBJECT – Application November 27, 2012 – Extension of Term of a previously granted variance (§72-21) for the continued operation of a one story warehouse and office/retail store building (UG 16 & 6), which expired on May 19, 2003; Waiver of the Rules. R4 zoning district.

PREMISES AFFECTED – 145-21/25 Liberty Avenue, northeast corner of Liberty Avenue and Brisbin Street, Block 10022, Lot(s) 1, 20, 24, Borough of Queens.

COMMUNITY BOARD #12Q

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Vice Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez4

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 extend the term of a prior variance; and

WHEREAS, a public hearing was held on this application on March 25, 2014, after due notice by publication in *The City Record*, with continued hearings on April 26, 2014, June 10, 2014, and July 15, 2014, and then to decision on July 29, 2014; and

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

WHEREAS, Community Board 12, Queens, recommends approval of this application; and

WHEREAS, the subject site is located on the northeast corner of Liberty Avenue and Brisbin Street within an R4 zoning district; and

WHEREAS, the site is occupied by three one-story warehouse buildings; and

WHEREAS, the Board has exercised jurisdiction over the site since May 19, 1998, when, under the subject calendar number, the Board granted a variance to permit, on a site within an R4 zoning district, the construction and maintenance of a one-story office/retail building (Use Group 6 and 16), which did not comply with the use regulations, for a term of five years, to expire on May 19, 2003; and

WHEREAS, the approval reflected a one-story building to be divided into three units; however, three attached buildings were constructed with three separate Certificates of Occupancy; and

WHEREAS, Lot 1 was approved for Use Group 6 occupancy, Lots 20 and 24 (formerly Lots 5 and 6, respectively) approved for Use Group 6 or Use Group 16 (warehouse); and

WHEREAS, the applicant now seeks a new term without any expiration; 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, 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) eliminate all signage that exceeds C1 zoning district regulations; and (2) eliminate all graffiti; and

WHEREAS, the applicant submitted a sign analysis for each lot and photographs of the existing signage which will be replaced by C1 zoning district compliance and which will be brought into compliance with C1 zoning district regulations during any interim period before the new signs are installed; and

WHEREAS, the applicant submitted photographs which reflect the removal of all graffiti at the site; and

WHEREAS, the Board indicated at hearing that it would not support eliminating the term or a 15-year term; and

WHEREAS, accordingly, the applicant revised the request to seek a ten-year term which would provide greater flexibility than the prior five-year term with respect to negotiating leases with tenants; and

WHEREAS, the applicant notes that despite the lapse in term, there have not been any complaints filed with either the Community Board or DOB and that the subject use is in character with surrounding uses fronting on Liberty Avenue, a wide commercial street with numerous Use Group 6 and Use Group 16 uses; 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 May 19, 1998, to permit the noted extension of term for a period of ten years, *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 February 24, 2014' - (3) sheets; and *on further condition*:

THAT the term will expire on July 29, 2024;

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

THAT all conditions from prior resolutions, including the limitation on uses, not waived herein by the Board remain in effect and will be noted on the Certificate of Occupancy;

THAT the above conditions will be noted on the Certificate of Occupancy;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed 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 29, 2014.

A true copy of resolution adopted by the Board of Standards and Appeals, July 29, 2014.

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Copies Sent

To Applicant

Fire Com'r.

Borough Com'r.

