

***CORRECTION**

The resolution adopted on June 17, 2014, under Calendar No. 11-93-BZ and printed in Volume 99, Bulletin No. 25, is hereby corrected to read as follows:

11-93-BZ

APPLICANT – Sheldon Lobel, P.C. for Joy Kiss Management, LLC, owner; Chen Qiao Huang (Good fortune Restaurant), lessee.

SUBJECT – Application December 18, 2013 – Extension of Time to obtain a Certificate of Occupancy for a previously approved variance (§72-21), which expired on March 20, 2013; Waiver of the Rules. R3-2/C2-2 and R3-2 zoning districts.

PREMISES AFFECTED – 46-45 Kissena Boulevard aka 140-01 Laburnum Avenue, northeast corner of the intersection formed by Kissena Boulevard and Laburnum Avenue, Block 5208, Lot 32, Borough of Queens.

COMMUNITY BOARD #7Q

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, reopening, an extension of term for the operation of an eating and drinking establishment, which expired on March 15, 2014, and an extension of time to obtain a certificate of occupancy, which expired on March 20, 2013; and

WHEREAS, a public hearing was held on this application on February 25, 2014, after due notice by publication in the City Record, with a continued hearing on May 20, 2014, and then to decision on June 17, 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 7, Queens, recommends disapproval of the application, citing the following concerns regarding the eating and drinking establishment at the site: (1) that the establishment is serving alcohol with an expired liquor license; (2) that it is being operated as a catering facility without a public assembly certificate of operation (“PA”) or an amended certificate of occupancy (“CO”); and (3) that it has open violations from the Department of Buildings (“DOB”); and

WHEREAS, the subject site is located on the

northeast corner of the intersection of Kissena Boulevard and Laburnum Avenue, within a C2-2 (R3-2) and R3-2 zoning districts; and

WHEREAS, the site has 40,830 sq. ft. of lot area; and

WHEREAS, the site is occupied by a one-story building operated as a restaurant (Use Group 6); and

WHEREAS, the Board has exercised jurisdiction over the subject site since May 6, 1958 when, under BSA Cal. No. 788-57-BZ, the Board granted a variance to permit the construction of a one-story storage garage and motor vehicle repair shop, with two gasoline dispensing pumps, for a term of 20 years; and

WHEREAS, subsequently, the grant has been amended by the Board at various times; and

WHEREAS, on March 15, 1994, under the subject calendar number, the Board granted a special permit under ZR § 11-413 to permit the change of use from motor vehicle storage and repair to an eating and drinking establishment with accessory parking, for a term of ten years, which expired on March 15, 2004; and

WHEREAS, on October 5, 2010, the Board granted a ten-year extension of term from the expiration of the prior grant, to expire on March 15, 2014, and an amendment pursuant to ZR § 11-412 to permit certain modifications to the building; a condition of the grant was that a CO be obtained by October 5, 2011; and

WHEREAS, most recently, on March 20, 2012, the Board granted an extension of time to obtain a CO, to expire on March 20, 2013; and

WHEREAS, the applicant now requests an extension of term and an extension of time to obtain a CO; and

WHEREAS, at hearing, the Board directed the applicant to: (1) respond the concerns of the community board; (2) remove the food storage trucks from the site; and (3) clarify the location and screening of the proposed garbage storage area; and

WHEREAS, in response, the applicant confirmed that: (1) alcohol is not available for purchase at the establishment; (2) it will be seeking a PA and a CO for a Use Group 6 eating and drinking establishment; (3) there is no catering (Use Group 9) at the site; and (4) the nine remaining open DOB violations are related to the lack of PA and CO for Use Group 6; and

WHEREAS, as to the food storage trucks, the applicant submitted photographs demonstrating that such trucks had been removed; and

WHEREAS, as to the garbage storage area, the applicant provided an amended plot plan, which details the location and screening of the area; the applicant also represents that there is a drain in the area and that the dumpster will be cleaned twice per day; and

WHEREAS, based upon its review of the record, the Board finds that the requested extension of time is appropriate with certain conditions as set forth below.

Therefore it is Resolved, that the Board of

11-93-BZ

application marked 'Received June 3, 2014' – (3) sheets; Standards and Appeals *waives* the Rules of Practice and Procedure, *reopens*, and *amends* the resolution, as adopted on March 15, 1994, to grant a one-year extension of time to obtain a certificate of occupancy, to expire on June 17, 2015 and to grant a ten-year extension of term, to expire on March 15, 2024; *on condition* that any and all work shall substantially conform to drawings as they apply to the objections above noted, filed with this and *on further condition*:

THAT use of the site shall be limited to a restaurant (Use Group 6) with accessory parking for 61 automobiles;

THAT all signage shall comply with C2 zoning district regulations;

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

THAT a new certificate of occupancy will be obtained by June 17, 2015;

THAT all conditions from prior resolutions 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);

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; 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)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, June 17, 2014.

The resolution has been amended. Corrected in Bulletin No. 26, Vo. 99, dated July 2, 2014.

**A true copy of resolution adopted by the Board of Standards and Appeals, June 17, 2014.
Printed in Bulletin No. 25, Vol. 99.**

**Copies Sent
To Applicant
Fire Com'r.
Borough Com'r.**

