

**192-96-BZ**

APPLICANT – Sheldon Lobel, PC, for 1832 Realty LLC, owner.

SUBJECT – Application January 7, 2014 – Amendment of a previously approved variance (§72-21) which permitted a large retail store (UG 10) contrary to use regulations. The application seeks to eliminate the term, which expires on September 23, 2022. C1-2/R5 zoning district.

PREMISES AFFECTED – 1832 86th Street, aka 1854 86th Street; 1-29 Bay Street, 2-6 Bay 20th Street, located on the southwest side of 86th Street spanning the entire block frontage between Bay 19th St and Bay 20th Street. Block 6370, Lot 41, 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 Montanez .....5  
Negative:.....0

**THE RESOLUTION –**

WHEREAS, this is an application for a reopening and an amendment to a use variance to eliminate the term; and

WHEREAS, a public hearing was held on this application on April 8, 2014, after due notice by publication in The City Record, with a continued hearing on May 6, 2014, and then to decision on June 10, 2014; and

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

WHEREAS, Community Board 11, Brooklyn, recommends approval of this application; and

WHEREAS, the subject site is located on the southeast corner of the intersection of 86th Street and Bay 19th Street, partially within an R5 zoning district and partially within an C1-2 (R5) zoning district; and

WHEREAS, the site has approximately 193 feet of frontage along 86th Street, approximately 254 feet of frontage along Bay 19th Street, approximately 100 feet of frontage along Bay 20th Street, and 34,269 sq. ft. of lot area; and

WHEREAS, the site is occupied by a two-story commercial building with 33,875 sq. ft. of floor area (0.99 FAR); it is operated as a Marshall’s retail store; and

WHEREAS, on September 23, 1997, under the subject calendar number, the Board granted a variance to permit the renovation of the existing building, from a non-conforming movie theater (Use Group 8) and retail stores (Use Group 6) to a retail store exceeding 10,000 sq. ft. (Use Group 10), contrary to ZR § 32-15, for a term of 25 years, to expire on September 23, 2022; and

WHEREAS, the applicant now seeks to amend the

grant to eliminate the 25-year term; and

WHEREAS, the applicant represents that the term has hindered the owner’s ability to refinance the property and secure a tenant for a stable lease term; the applicant states that the lease term does not coincide directly with the variance term, which makes for uncertainty and difficulty in securing a long-term commercial lease, which typically runs at least 20 years; and

WHEREAS, the applicant contends that commercial use of the site without a term is appropriate and will have no negative impacts on the surrounding neighborhood; and

WHEREAS, the applicant notes that the majority of the site is within an C1-2 (R5) district, where commercial uses are permitted as-of-right; as for the mid-block R5 portion of the site, the applicant notes that the subject building was constructed in the 1920s and occupied as a theater for decades; as such, commercial use is well-established in the R5 portion of the site; and

WHEREAS, the applicant states that nearly all nearby sites along 86th Street—a major commercial thoroughfare—are used for commercial purposes; and

WHEREAS, the applicant also notes that the current tenant is popular in the community and provides jobs for community residents; and

WHEREAS, at hearing, the Board directed the applicant: (1) provide proof that all property owners within 400 feet of the site were notified of the proposal; and (2) remove the barbed wire atop the fence that encloses the building’s parking lot; and

WHEREAS, in response, the applicant submitted: (1) proof of the required notifications; and (2) photographs showing the removal of the barbed wire; and

WHEREAS, based upon its review of the record, the Board finds that the proposed elimination of term is appropriate, with certain conditions, as noted below.

*Therefore it is Resolved*, that the Board of Standards and Appeals *reopens* and *amends* the resolution, dated September 23, 1997, to permit the elimination of the 25-year term of the variance, *on condition* that any and all work shall substantially conform to drawings as they apply to the objection above noted, filed with this application marked ‘January 7, 2014’-(7) sheets; and *on further condition*:

THAT barbed wire will not be installed at the site;  
THAT all conditions from the prior resolution not specifically waived by the Board remain in effect;

THAT DOB must ensure compliance with all 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. 300554905)

Adopted by the Board of Standards and Appeals, June 10, 2014.

**A true copy of resolution adopted by the Board of Standards and Appeals, June 10, 2014.**

**Printed in Bulletin Nos. 22-24, Vol. 99.**

**Copies Sent**

**To Applicant**

**Fire Com'r.**

**Borough Com'r.**

