

47-97-BZ

APPLICANT – Sheldon Lobel, P.C., for Flatlands 78, L.L.C., owner.

SUBJECT – Application December 13, 2013 – Amendment of a previously approved Variance (§72-21) which permitted construction of a one-story and cellar retail drug store and five smaller stores with accessory parking. The amendment is seeking to remove the twenty-year term restriction imposed by the Board. C2-3/R5D & R5B zoning district.

PREMISES AFFECTED – 7802 Flatlands Avenue, corner and through lot located on the east side of Flatlands Avenue between East 78th Street and East 79th Street, Block 8015, Lot 41, Borough of Brooklyn.

COMMUNITY BOARD #18BK

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for an amendment to a variance to eliminate the term for Use Group 6 retail use at the site; and

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

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

WHEREAS, Community Board 18, Brooklyn, recommends approval of the request to eliminate the term; and

WHEREAS, the site has frontage on Flatlands Avenue, East 78th Street, and East 79th Street, located partially within an R5B zoning district and partially within a C2-3(R5D) zoning district; and

WHEREAS, the site is occupied by a one-story building with a drug store and four smaller stores; and

WHEREAS, the Board has exercised jurisdiction over the site since March 24, 1998 when, under the subject calendar number, the Board granted a variance to permit the construction of a one-story building to be occupied by a drug store and five smaller stores with accessory parking (Use Group 6) in what was then partially within an R5 zoning district and partially within a C2-2 zoning district, for a 20-year term to expire on March 24, 2018; and

WHEREAS, the applicant represents that the DOB-approved plans are consistent with the Board-approved plans associated with the variance and depict a one-story and cellar building with 16,000 sq. ft. of floor area to be occupied by a drug store, five smaller retail stores, and an accessory parking area with 44 spaces and a loading

berth; and

WHEREAS, the applicant notes that the prior grant's resolution erroneously states one large store and six smaller stores, while the DOB plans correctly illustrate the one large store and five smaller stores; and

WHEREAS, the applicant represents that it is unable to locate the Board-approved plans to confirm the error regarding the number of stores; and

WHEREAS, the applicant also notes that of the total of six stores, it has merged two into one store, Flatlands Dental Care (1,941.5 sq. ft. of floor area); the remaining three smaller stores are occupied by Subway, Da Beauty Spa, and Panko Express (750 sq. ft., 966.5 sq. ft., and 916.5 sq. ft., respectfully); and the large store is occupied by Rite Aid drug store; and

WHEREAS, the applicant has submitted plans to reflect the current configuration and asserts that such configuration is in substantial compliance with the variance grant; and

WHEREAS, the applicant notes that in 2009, through the Flatbush Rezoning, the City Planning Commission rezoned the site from partially R5 and partially C2-2 to partially R5B and partially R5D/C2-3 zoning districts; and

WHEREAS, the applicant now seeks to eliminate the term; and

WHEREAS, the applicant requests that the term be eliminated for the following reasons: (1) the lease terms do not coincide with the variance term, which leads to uncertainty and difficulty obtaining leases, which typically last for 20 years for commercial uses; (2) many lessees, such as Rite Aid, prefer a longer lease with multiple options for extension; and (3) there is a hardship in securing leases due to the limited term; and

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

Therefore it is Resolved, that the Board of Standards and Appeals *reopens*, and *amends* the resolution, dated March 24, 1998, to eliminate a term and specifically the March 24, 2018 expiration; *on condition* that all work will substantially conform to drawings filed with this application marked "Received July 28, 2014"-(5) sheets; and *on further condition*:

THAT all conditions from the prior resolutions not specifically waived by the Board remain in effect and 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) only; and

THAT the Department of Buildings 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. 300607840)

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.

