

140-11-A & 141-11-A

APPLICANT – Sheldon Lobel, P.C., for BQM Management, LLC, owner.

SUBJECT – Application December 18, 2013 – Extension of time and complete construction and secure Certificates of Occupancy. R5D zoning district.

PREMISES AFFECTED – 69-17 38th Avenue aka 69-19 38th Avenue, north side of 38th Avenue, between the BQE and 69th Street, Block 1282, Lot 64, Borough of Queens.

COMMUNITY BOARD #2Q

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Otteley-Brown, Commissioner Hinkson and Commissioner Montanez5

Negative:.....0

THE RESOLUTION –

WHEREAS, this is an application for an extension of time to complete construction and obtain a certificate of occupancy for a four-story residential building at the subject site; and

WHEREAS, a public hearing was held on this application on March 4, 2014, after due notice by publication in *The City Record*, with a continued hearing on April 1, 2014, and then to decision on May 6, 2014; and

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

WHEREAS, the subject site is located on the north side of 38th Avenue between the Brooklyn-Queens Expressway and 69th Street; and

WHEREAS, the site is a triangular-shaped parcel with 50 feet of frontage on 38th Avenue and a total lot area of 3,673.8 sq. ft.; and

WHEREAS, the applicant proposes to develop the site with one four-story residential building with eight dwelling units (the “Building”); and

WHEREAS, the applicant notes that it originally proposed two four-story buildings with four dwelling units in each building on separate tax lots (tentative lots 64 and 65); however, in 2011, the plans were revised to combine the buildings into a single building on a single tax lot (Lot 64) with the same envelope and the same number of dwelling units as originally proposed; and

WHEREAS, the site was formerly located within an R6 zoning district; and

WHEREAS, the applicant states that New Building Permit Nos. 420370217-01-NB and 420370208-01-NB were issued on July 26, 2011 (the “New Building Permits”), authorizing construction of the Building in accordance with the R6 zoning district regulations; and

WHEREAS, on July 28, 2011 (the “Enactment Date”), the City Council voted to adopt the Sunnyside-Woodside Rezoning, which rezoned the site to R5D; and

WHEREAS, the New Building Permits lapsed by

operation of law on the Enactment Date because the plans did not comply with the new R5D zoning district regulations and foundations were not complete; and

WHEREAS, on December 13, 2011, under the subject calendar numbers, the Board adopted a resolution recognizing that a vested right to continue construction under the New Building Permits had accrued under the common law doctrine of vested rights, and the Board reinstated the New Building Permits for a term of two years, to expire on December 13, 2013; and

WHEREAS, the applicant notes that, due to the redesign discussed above, only New Building Permit No. 420370217-01-NB will remain active and has been amended to reflect the combined four-story building; and

WHEREAS, by letter dated May 5, 2014, the Department of Buildings (“DOB”) states that New Building Permit No. 420370217 was lawfully issued; and

WHEREAS, the applicant represents that, as of December 13, 2013, construction has not been completed and a certificate of occupancy has not been issued for the Building; and

WHEREAS, thus, the applicant now seeks an additional two-year term in which to complete construction and obtain a certificate of occupancy; and

WHEREAS, the applicant notes that, subsequent to the 2011 grant and prior to the December 13, 2013 expiration of the permits, the following work was performed: completion of the foundation; installation of concrete block walls up to the second story; and installation of some steel beams and girders to the second story; and

WHEREAS, the applicant states that, including \$93,000 in soft costs, it has expended a total of \$424,000 since the Board’s 2011 grant; and

WHEREAS, at hearing, the Board directed the applicant to clarify the status of open DOB and Environmental Control Board violations at the site; and

WHEREAS, in response, the applicant represented that the violations related to a Stop Work Order, which has since been rescinded; and

WHEREAS, the Board has reviewed the evidence in the record and determined that the requested extension of time is warranted; and

WHEREAS, accordingly, the Board hereby grants the owner of the site a two-year extension of time to complete construction and obtain a certificate of occupancy.

Therefore it is Resolved, that this application to renew New Building Permit No. 420370217-01-NB, as well as all related permits for various work types, either already issued or necessary to complete construction, is granted, and the Board hereby extends the time to complete construction and obtain a certificate of occupancy for two years from the date of this resolution, to expire on May 6, 2016.

Adopted by the Board of Standards and Appeals, May 6, 2014.

A true copy of resolution adopted by the Board of Standards and Appeals, May 6, 2014.

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Copies Sent

To Applicant

Fire Com'r.

Borough Com'r.

