

**24-96-BZ**

APPLICANT – Rothkrug Rothkrug & Spector LLP, for Lesaga LLC, owner.

SUBJECT – Application December 31, 2013 – Extension of Time to obtain a Certificate of Occupancy of a previously granted variance for the continued operation of a UG6 eating and drinking establishment (*McDonald's*), which expired on May 18, 2009; Waiver of the Rules. R7-2 zoning district.

PREMISES AFFECTED – 213 Madison Street, north side of Madison Street 184' east of the intersection of Madison Street and Rutgers Street, Block 271, Lot 40, Borough of Manhattan.

**COMMUNITY BOARD #3M**

**ACTION OF THE BOARD** – Application granted on condition.

**THE VOTE TO GRANT –**

Affirmative: Vice Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez .....4  
Negative:.....0

**THE RESOLUTION –**

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure, a reopening, an extension of the time to obtain a Certificate of Occupancy for an eating and drinking establishment (Use Group 6); and

WHEREAS, a public hearing was held on this application on April 11, 2014, after due notice by publication in the *City Record*, with continued hearings on May 13, 2014, June 10, 2014, and July 15, 2014, and then to decision on July 22, 2014; and

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

WHEREAS, the site is located on the north side of Madison Street between Rutgers Street and Jefferson Street, within an R7-2 zoning district; and

WHEREAS, the site is currently occupied by an eating and drinking establishment (Use Group 6) operated as McDonald's; and

WHEREAS, the Board has exercised jurisdiction over the subject site since April 19, 1955 when, under BSA Cal. No. 664-54-BZ, the Board granted a variance to permit the construction and maintenance of a commercial building (retail store) for a term of 15 years; and

WHEREAS, on October 7, 1997, under the subject calendar number, the Board granted an application to re-establish the variance, which lapsed in 1970; and

WHEREAS, in 2004, the use of the subject premises was changed from a retail store to an eating and drinking establishment; and

WHEREAS, on November 18, 2008, the Board approved an amendment to legalize the change in use

**A true copy of resolution adopted by the Board of Standards and Appeals, July 22, 2014.**

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**Copies Sent**

**To Applicant**

**Fire Com'r.**

**Borough Com'r.**

from a retail store (Use Group 6) to an eating and drinking establishment (Use Group 6) and to extend the term for a period of ten years to expire on October 7, 2017; and

WHEREAS, a condition of the grant was that an updated CO be obtained by May 18, 2009; and

WHEREAS, a CO has not been obtained; and

WHEREAS, at hearing, the Board directed the applicant to ensure that the signage complies with C1 zoning district regulations; and

WHEREAS, in response, the applicant removed all non-complying signage including flags and banners; and

WHEREAS, the applicant submitted photographs that reflect the removal of the flags, banners, and support brackets that held them; and

*Therefore it is Resolved*, that the Board of Standards and Appeals waives the Rules of Practice and Procedure, reopens, and grants an extension of time to obtain a Certificate of Occupancy, to expire on July 15, 2015; *on condition* that any and all use will substantially conform to drawings associated with the prior approval; and *on further condition*:

THAT the grant will expire on October 7, 2017;

THAT a rear yard no less than 11'-0" in depth will be provided in accordance with the BSA-approved plans and be maintained free and clear of debris and any other encroachments;

THAT the premises will be maintained clean and free of graffiti;

THAT all signage will comply with C1 zoning district regulations;

THAT the above conditions and all other relevant conditions from prior approvals will be listed on the certificate of occupancy;

THAT a certificate of occupancy will be obtained by July 15, 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) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; 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)/configuration(s) not related to the relief granted. (DOB Application. No. 121682287)

Adopted by the Board of Standards and Appeals, July 22, 2014.

