

101-92-BZ

APPLICANT – Sheldon Lobel, P.C., for Portrem Realty Company, LLC, owner.

SUBJECT – Application December 2, 2016 – Extension of Term (§11-411) for the continued operation of the use of parking lot for non-commercial, non-transient parking which expired on October 26, 2013; Waiver of the Rules. C1-4/R8 zoning district.

PREMISES AFFECTED – 66-98 East Burnside Avenue, Block 2829, Lot 45, Borough of Bronx.

COMMUNITY BOARD #5BX

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice-Chair Chanda, Commissioner Ottley-Brown, Commissioner Sheta and Commissioner Scibetta.....5

Negative:0

THE RESOLUTION –

WHEREAS, this is an application for a waiver of the Board's Rules of Practice and Procedure and an extension of term of a variance, previously granted by the Board; and

WHEREAS, a public hearing was held on this application on February 13, 2018, after due notice by publication in *The City Record*, with continued hearings on May 1, 2018, and then to decision on June 26, 2018; and

WHEREAS, Commissioner Ottley-Brown performed an inspection of the site and surrounding neighborhood; and

WHEREAS, the Board has exercised jurisdiction over the subject site since May 7, 1957, when, under BSA Calendar Number 754-56-BZ, the Board granted a variance to permit the unbuilt upon portion of the subject site at the rear to be occupied for the parking of employees' and patrons' cars, without charge, and for parking by other persons in the neighborhood who desire such parking, at a rate to be established for a term of five (5) years, expiring May 7, 1962, on condition that such portion of the subject site be leveled substantially to the grade of Walton Avenue and the plot surfaced with clean gravel or steam cinders treated with a binder and properly rolled, that the extension of the present building formerly used as an oven be removed, that fences of the woven wire chain link type be erected on all lot lines not less than 5'-6" in height, that entrance be maintained at Walton Avenue only with curb cut opposite not exceeding 15 feet, that at the entrance at the building line there be gates of similar construction and suitable bumpers maintained at all points for protection of the wall and building, that there may be a sign attached to the fence near the entrance which shall not extend over the building line, shall not be illuminated and shall not exceed 15 square feet in area, that such portable fire-fighting appliances be maintained as the Fire Commissioner directs, that any differences in grade be maintained by means of slopes which shall be properly paved, or by retaining walls and

that a certificate of occupancy be obtained within six (6) months, by November 7, 1957; and

WHEREAS, on November 6, 1957, under BSA Calendar Number 754-56-BZ, the Board amended the variance to permit as proposed the unbuilt upon portion of the subject site to be occupied for the parking and storage of motor vehicles of the pleasure car type only as indicated on the Board-approved plans; and

WHEREAS, on January 9, 1962, under BSA Calendar Number 754-56-BZ, the Board granted an extension of term of five (5) years, expiring January 9, 1967, on condition that a new certificate of occupancy be obtained; and

WHEREAS, on February 15, 1967, under BSA Calendar Number 754-56-BZ, the Board granted an extension of term of five (5) years, expiring February 15, 1972, on condition that a certificate of occupancy be obtained; and

WHEREAS, on May 2, 1972, under BSA Calendar Number 754-56-BZ, the Board granted an extension of term of five (5) years, expiring February 15, 1977, on condition that a new certificate of occupancy be obtained; and

WHEREAS, on October 26, 1993, under the subject calendar number, the Board granted a reinstatement of the variance to permit a non-transient parking lot (Use Group 8) for a term of ten (10) years, expiring October 26, 2003, on condition that the site be maintained free of graffiti and debris, that the parking lot be paved in accordance with Building Code § 27-479, that street trees and fencing be provided and maintained in accordance with the Board-approved plans, that all lights be directed downward and away from adjacent residential uses, that if signs are provided for the parking lot, such signs be limited to 15 square feet and that the above conditions appear on the certificate of occupancy; and

WHEREAS, on April 27, 2004, under the subject calendar number, the Board granted an extension of term of ten (10) years, expiring October 26, 2013, on condition that the number of parking spaces on the site shall be limited to a maximum of 25, of which 11 spaces shall be made available for rental to neighborhood people as indicated on the previous certificate of occupancy, that the parking layout be approved by the Department of Buildings and that the above conditions appear on the certificate of occupancy; and

WHEREAS, the term having expired, the applicant now seeks a waiver of the Board's Rules of Practice and Procedure to permit the late filing of this application and an extension of term; and

WHEREAS, in response to questions from the Board, the applicant submitted evidence that the use has been continuous, that lighting levels are low along the perimeter, that plantings have been installed, that the fences are in place and that fewer than 10 percent of the visitors to the site access the commercial retail and eating or drinking establishment by personal vehicle;

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and

WHEREAS, based upon its review of the record, the Board has determined that the requested waiver of the Board's Rules of Practice and Procedure and extension of term are appropriate with certain conditions as set forth below.

Therefore it is Resolved, that the Board of Standards and Appeals does hereby *wave* the Rules of Practice and Procedure and *reopen* and *amend* the resolution, dated October 26, 1993, as amended through April 27, 2004, so that as amended this portion of the resolution shall read: "to *permit* an extension of term of ten (10) years, expiring October 26, 2023; *on condition* that all work and site conditions shall conform to drawings filed with this application marked "Received April 12, 2018"-One (1) sheet; and *on further condition*:

THAT the term of this grant shall be limited to ten (10) years, expiring October 26, 2023;

THAT landscaping shall be maintained and replaced as necessary to create a dense buffer zone;

THAT fencing shall be maintained;

THAT the number of parking spaces on the site shall be limited to a maximum of 25, of which 11 spaces shall be made available for rental to neighborhood people as indicated on the previous certificate of occupancy;

THAT the parking layout shall be as approved by the Department of Buildings;

THAT the site shall be maintained free of graffiti and debris;

THAT the parking lot shall be paved in accordance with Building Code § 27-479;

THAT street trees and fencing shall be provided and maintained in accordance with the Board-approved plans;

THAT all lights shall be directed downward and away from adjacent residential uses;

THAT if signs are provided for the parking lot, such signs shall be limited to 15 square feet;

THAT the above conditions shall appear on the certificate of occupancy;

THAT a certificate of occupancy shall be obtained within four (4) years, by June 26, 2022;

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 objections cited and filed by the Department of Buildings;

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 plans or configurations not related to the relief granted."

Adopted by the Board of Standards and Appeals, June 26, 2018.

A true copy of resolution adopted by the Board of Standards and Appeals, June 26, 2018.

Printed in Bulletin No. 27, Vol. 103.

Copies Sent

To Applicant

Fire Com'r.

Borough Com'r.

