

143-01-BZ

APPLICANT – Law Offices of Marvin Mitzner LLC, for Thomas R. Birchard, owner.

SUBJECT – Application July 23, 2019 – Extension of Time to Obtain a Certificate of Occupancy of a previously approved Variance (§72-21) which permitted the operation of a veterinarian’s office contrary to ZR §22-10. R8B zoning district.

PREMISES AFFECTED – 348 East 9th Street, Block 450, Lot 28, Borough of Manhattan.

COMMUNITY BOARD #3M

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 extension of time to obtain a certificate of occupancy, which expired on March 6, 2019; and

WHEREAS, a public hearing was held on this application on July 23, 2019, after due notice by publication in *The City Record*, and then to decision on that same date; and

WHEREAS, Commissioner Ottley-Brown and Commissioner Scibetta performed inspections of the subject site and surrounding neighborhood; and

WHEREAS, the subject site is located on the south side of East 9th Street, between Second Avenue and First Avenue, in an R8B zoning district, in Manhattan; and

WHEREAS, the site has approximately 25 feet of frontage along East 9th Street, 94 feet of depth, 2,348 square feet of lot area and is occupied by an existing six-(6) story plus cellar and sub-cellar mixed-use commercial and residential building; and

WHEREAS, the Board has exercised jurisdiction over the subject site since November 12, 2002, when, under the subject calendar number, the Board granted a variance, pursuant to ZR § 72-21, to legalize the operation of a veterinary office (Use Group 6B) located at the cellar level on condition that all work substantially conform to drawings as they apply to the objections, filed with the application; the first floor at the premises revert to a conforming use within one (1) year, by November 12, 2003; there be no boarding of animals at the premises; the term of the variance be limited to five (5) years, expiring November 12, 2007; a new certificate of occupancy be obtained within one (1) year, by November 12, 2003; the conditions appear on the certificate of occupancy; the approval be limited to the relief granted by the Board in response to specifically cited and filed Department of Buildings (“DOB”) other jurisdiction objection(s) only; the approved plans be considered approved only for the portions related to the specific relief granted; and, DOB 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; and

WHEREAS, on March 6, 2018, under the subject calendar number, the Board amended the resolution to extend both the term of the variance and time to obtain a certificate of occupancy on condition that all work and site conditions conform to the Board-approved plans; the term of the grant be limited to 15 years, expiring November 12, 2022; the use permitted by the grant be limited to a veterinary office (Use Group 6B); there be no boarding of animals at the subject site; the conditions appear on the certificate of occupancy; a certificate of occupancy be obtained within one (1) year, by March 6, 2019; all conditions from prior resolutions not specifically waived by the Board remain in effect; the approval be limited to the relief granted by the Board in response to objections cited and filed by the Department of Buildings; the approved plans be considered approved only for the portions related to the specific relief granted; and, the Department of Buildings 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; and

WHEREAS, the time to obtain a certificate of occupancy having expired, the applicant seeks the subject relief; and

WHEREAS, in addition, because this application was filed more than 30 days after the expiration of the time to obtain a certificate of occupancy, the applicant requests a waiver, pursuant to § 1-14.2 of the Board’s Rules of Practice and Procedure (the “Board’s Rules”), of § 1-07.3(d)(2), of the Board’s Rules to permit the filing of this application; and

WHEREAS, at hearing, the Board raised concerns regarding compliance with the condition that there be no boarding of animals at the subject site; and

WHEREAS, in response, the applicant provided an affidavit from the owner of the building affirming that there has not been, nor will there be, any boarding of animals at the subject site; and

WHEREAS, based upon its review of the record, the Board finds that a one (1) year extension of time to obtain a certificate of occupancy is appropriate with certain conditions, as set forth below.

Therefore, it is Resolved, that the Board of Standards and Appeals does hereby *waive* § 1-07.3(d)(2) of its Rules of Practice and Procedure and *amends* the resolution, dated November 12, 2002, as amended through March 6, 2018, so that as further amended this portion of the resolution reads: “to grant a one (1) year extension of time to obtain a certificate of occupancy to March 6, 2020, *on condition*:

THAT the term of the grant shall expire November

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12, 2022;

THAT the use permitted by the grant shall be limited to a veterinary office (Use Group 6B);

THAT there shall be no boarding of animals at the subject site;

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

THAT the above conditions shall be listed on the certificate of occupancy;

THAT a certificate of occupancy, also indicating this approval and calendar number ("BSA Cal. No. 143-01-BZ") shall be obtained by March 6, 2020;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s); and

THAT DOB 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."

Adopted by the Board of Standards and Appeals, July 23, 2019.

A true copy of resolution adopted by the Board of Standards and Appeals, July 23, 2019.

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Copies Sent

To Applicant

Fire Com'r.

Borough Com'r.

