

**185-05-BZ**

APPLICANT – John C. Chen for 62-02 Roosevelt Avenue Corporation, owner; Lapchi, Incorporated, lessee.

SUBJECT – Application April 20, 2011 – Extension of Term of a Variance (§72-21) for an eating and drinking establishment with dancing (UG12A) which expired on January 10, 2008; Amendment to permit the enlargement of the dance floor and kitchen; Extension of Time to complete construction which expired on January 10, 2009; waiver of the rules. C1-2/R6 zoning district.

PREMISES AFFECTED – 62-02 Roosevelt Avenue, south side of Roosevelt Avenue 192.59' west side of intersection of 63<sup>rd</sup> Street/Roosevelt Avenue. Block 1294, Lot 58. Borough of Queens.

**COMMUNITY BOARD #2Q**

APPEARANCES –

For Applicant: John C. Chen.

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

**THE VOTE TO GRANT** –

Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez .....5  
Negative:.....0

**THE RESOLUTION** –

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure, a re-opening, an extension of term of a previously granted variance to permit the conversion of the first floor of an existing two-story building from an eating and drinking establishment (UG 6) to an eating and drinking establishment with entertainment and dancing (UG 12), an amendment to permit modifications to the previously-approved plans, and an extension of time to complete construction; and

WHEREAS, a public hearing was held on this application on August 16, 2011, after due notice by publication in *The City Record*, with a continued hearing on November 15, 2011, and then to decision on December 13, 2011; and

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

WHEREAS, Community Board 2, Queens, recommends disapproval of this application; and

WHEREAS, at hearing, a representative of the Community Board provided testimony regarding inconsistencies between the applicant’s proposal before the Board and the proposal it provided to the State Liquor Authority (“SLA”) in seeking an extension of their liquor license, specifically related to the proposed hours and operations; and

WHEREAS, the subject site is located on the south side of Roosevelt Avenue, between the Long Island Railroad and 63<sup>rd</sup> Street, within a C1-2 (R6) zoning district; and

WHEREAS, the site has 22’-8” of frontage on Roosevelt Avenue and a total lot area of 7,435 sq. ft.; and

WHEREAS, the site is currently occupied by a two-story building with an eating and drinking establishment (UG 6) at the first floor; the second floor is currently vacant; and

WHEREAS, the Board has exercised jurisdiction over the subject site since January 10, 2006, when, under the subject calendar number, the Board granted a variance under ZR § 72-21 to permit the conversion of the first floor from an eating and drinking establishment (UG 6) to an eating and drinking establishment with entertainment and dancing (UG12), for a term of two years; and

WHEREAS, the applicant states that, due to financing difficulties, the work permitted under the variance was never completed and the first floor continues to operate as a UG 6 eating and drinking establishment; and

WHEREAS, the applicant now requests an extension of term for the variance and an extension of time to complete construction; and

WHEREAS, the applicant also seeks an amendment to legalize certain modifications to the site which do not comport with the previously-approved plans; and

WHEREAS, specifically, the applicant requests to legalize the following changes to the previously-approved plans: the enlargement of the existing kitchen, the construction of a bar within the designated waiting area, the enlargement of the dance floor and an increase in the maximum occupancy of the dance floor from 50 persons to 65 persons, and a modification to the seating layout; and

WHEREAS, the applicant states that the previously-approved waiting area will also be enlarged to compensate for the floor area occupied by the bar; and

WHEREAS, the applicant states that although the first floor has continued to operate as a UG 6 eating and drinking establishment since the Board’s grant, the subject alterations to the UG 6 eating and drinking establishment, for which the applicant now seeks an amendment, were undertaken by an interim lessee who has since abandoned the site due to financing difficulties; and

WHEREAS, the applicant represents that the current lessee now seeks to operate the site in accordance with the Board’s grant, while incorporating the subject alterations made by the interim lessee; and

WHEREAS, the applicant states that, despite the proposed amendments, the site will comply with the following conditions from the previous grant: (1) a maximum total occupancy of 269 persons; (2) a maximum floor area at the first floor of 5,960 sq. ft., including a waiting area of 1,076 sq. ft.; (3) a minimum of one security guard from 8:00 p.m. until closing on Thursday through Sunday, to ensure patrons do not congregate on the sidewalk near the entrance; and (4) hours of operation of Monday through Wednesday, from 8:00 a.m. to 2:00 a.m., and Thursday through Sunday, from 8:00 a.m. to 4:00 a.m.; and

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WHEREAS, at hearing, the Board directed the applicant to remove graffiti from the façade and side walls of the building, and to provide a partition to separate the bar area from the waiting area; and

WHEREAS, in response, the applicant submitted photographs reflecting that the graffiti has been removed, and submitted revised plans reflecting that a glass partition will be installed to separate the bar area from the waiting area; and

WHEREAS, as to the testimony provided by the Community Board representative, the applicant states that it previously filed a liquor license renewal application with the SLA to extend the hours of operation for the current UG 6 eating and drinking establishment use; and

WHEREAS, the Board notes that the SLA renewal application is not relevant to the subject application, but that the applicant states that it will revise the application at the SLA to reflect the proposed hours of operation after obtaining the Board's approval; and

WHEREAS, based upon the above, the Board finds the requested extension of term, extension of time, and amendments are appropriate, with certain conditions as set forth below.

*Therefore it is Resolved* that the Board of Standards and Appeals *waives* the Rules of Practice and Procedure, *reopens*, and *amends* the resolution, as adopted on January 10, 2006, so that as amended this portion of the resolution shall read: "to extend the term for a period of three years from the date of this grant, to expire on December 13, 2014, to permit the noted modifications to the previously approved plans, and to grant a two-year extension of time to complete construction, to expire on December 13, 2013; *on condition* that all use and operations shall substantially conform to plans filed with this application marked Received 'October 31, 2011-(9) sheets; and *on further condition*:

THAT the term of this grant shall expire on December 13, 2014;

THAT the hours of operation shall be: Monday through Wednesday, from 8:00 a.m. to 2:00 a.m., and Thursday through Sunday, from 8:00 a.m. to 4:00 a.m.;

THAT the maximum total occupancy of the first floor shall be 269 persons;

THAT there shall be a maximum of 65 persons on the dance floor, as indicated on the BSA-approved plans;

THAT the first floor shall have a maximum floor area of 5,960 sq. ft., including a waiting area of 1,076 sq. ft. (with a rate of 4 sq. ft. per occupant);

THAT from 8:00 p.m. until closing, Thursday through Sunday, a minimum of one security guard shall provide security services and ensure that patrons do not

congregate on the sidewalk near the entrance;

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

THAT construction shall be completed and a certificate of occupancy obtained by December 13, 2013;

THAT all conditions from prior resolutions not specifically waived by the Board remain in effect and shall be listed 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)/configuration(s) not related to the relief granted." (DOB Application No. 420178202)

Adopted by the Board of Standards and Appeals, December 13, 2011.

**A true copy of resolution adopted by the Board of Standards and Appeals, December 13, 2011.**

**Printed in Bulletin No. 51, Vol. 96.**

**Copies Sent**

**To Applicant**

**Fire Com'r.**

**Borough Com'r.**