

515-89-BZ

APPLICANT – Sheldon Lobel, P.C., for 50 East 78, LP, owner.

SUBJECT – Application November 25, 2016 – Extension of Term (11-411) of a previously approved variance permitting the operation of an art gallery in the basement of an existing building; Waiver of the Rules R8B (LH-1A) zoning district.

PREMISES AFFECTED – 50 East 78th Street, Block 1392, Lot 47, Borough of Manhattan.

COMMUNITY BOARD #8M

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown, Commissioner Montanez and Commissioner Chanda.....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 special permit, previously granted by the Board pursuant to ZR § 11-411, which is set to expire on October 16, 2017; and

WHEREAS, a public hearing was held on this application on June 21, 2016, after due notice by publication in *The City Record* and then to decision on the same date; and

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

WHEREAS, Community Board 8, Manhattan, recommends approval of this application; and

WHEREAS, the subject site is located on the south side of East 78th Street, between Madison Avenue and Park Avenue, in an R8B zoning district, within the Limited Height 1A district, in Manhattan; and

WHEREAS, the site has approximately 54 feet of frontage along East 78th Street, 5,517 sq. ft. of lot area, and is improved upon with an 11-story plus basement residential building; and

WHEREAS, the Board has exercised jurisdiction over the subject site since July 17, 1962 when, under BSA Cal. No. 1903-61-BZ, the Board granted a variance permitting the change in the use of the western portion of the basement to an art gallery for a term of five (5) years, expiring July 17, 1967; and

WHEREAS, the term of the variance having expired, the Board granted a new variance, pursuant to ZR § 72-21, on December 2, 1980 under BSA Cal. No. 930-80-BZ for the same use for a term of five (5) years, expiring December 2, 1985; and

WHEREAS, on October 16, 1990, under the subject calendar number, the Board issued a special permit, pursuant to ZR § 11-411, permitting the

reinstatement of the variance for a commercial art gallery (Use Group 6) for a term of two (2) years, expiring October 16, 1992; and

WHEREAS, the grant was subsequently amended and extended at various times; and

WHEREAS, most recently, on October 16, 2007, the grant was extended for a period of ten (10) years, to expire on October 16, 2017; and

WHEREAS, the instant application seeks a further extension of the term; and

WHEREAS, in addition, the applicant requests a waiver of the Board's Rule of Practice and Procedure § 1-07.3(b)(2) to permit the filing of this application more than one (1) year before the expiration of the term; and

WHEREAS, the applicant submits that the application has been made prior to the expiration of the current term because the gallery space is vacant and the short amount of time remaining on the current term prevents the applicant from securing a new long-term tenant, despite numerous inquiries; and

WHEREAS, pursuant to Rule § 1-07.3(b)(2), the applicant has demonstrated that the art gallery use has been continuous at the site since the time of the original variance grant in 1962 and that substantial prejudice would result without a grant of the requested waiver; and

WHEREAS, the Board finds that a waiver of its Rules and a ten (10) year extension of the term of the special permit are appropriate with certain conditions as set forth below.

Therefore it is Resolved, that the Board of Standards and Appeals *reopens* and *amends* the resolution, dated October 16, 1990, so that as amended this portion of the resolution reads: "to grant an extension of the term of the special permit for a term of ten (10) years to expire on October 16, 2027; *on condition* that all work and site conditions shall comply with drawings filed with this application marked 'Received June 20, 2016'-Four (4) sheets; and *on further condition*:

THAT this grant shall expire October 16, 2027;

THAT the above condition shall appear on the Certificate of Occupancy;

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; 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, June 21, 2016.

A true copy of resolution adopted by the Board of Standards and Appeals, June 21, 2016.

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Copies Sent

To Applicant

Fire Com'r.

Borough Com'r.

