

705-81-BZ

APPLICANT – Rothkrug Rothkrug & Spector LLP, for Fraydun Enterprises, LLC, owner; Fraydun Enterprises, LLC, lessee.

SUBJECT – Application November 10, 2014 – Extension of Term of a previously approved Variance (§72-21) which permitted the operation of a physical culture establishment which expired on May 10, 2013; Extension of Time to obtain a Certificate of Occupancy; Waiver of the Rules. R10 zoning district.

PREMISES AFFECTED – 1433 York Avenue, northeast corner of intersection of York Avenue and East 76th Street, Block 01471, Lot 21, 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 and Commissioner Montanez.....4
Negative:.....0
Abstain: Commissioner Chanda.....1

THE RESOLUTION –

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure, an extension of time to obtain a Certificate of Occupancy, which expired on May 10, 1988, and an extension of the term of a variance previously granted by the Board under the subject calendar number, which expired on May 10, 2013; and

WHEREAS, a public hearing was held on this application on June 16, 2015 after due notice by publication in *The City Record*, with continued hearings on July 28, 2015, and September 22, 2015, and then to decision on October 27, 2015; and

WHEREAS, Vice-Chair Hinkson and Commissioner Ottley-Brown performed inspections of the site and surrounding neighborhood; and

WHEREAS, the subject site is located on the northwest corner of the intersection of York Avenue and East 76th Street, within an R10 zoning district, in Manhattan; and

WHEREAS, the site has approximately 75 feet of frontage along York Avenue, 75 feet of frontage on East 76th Street, and 5,625 sq. ft. of lot area; and

WHEREAS, the site is occupied by a seven-story mixed use building; and

WHEREAS, on May 10, 1983, under the subject calendar number, the Board granted a variance pursuant to ZR § 72-21 to permit the use of the existing accessory physical culture establishment (PCE) on the cellar and first floor level as a non-accessory physical culture use and the addition of the second floor to the physical culture use; and

WHEREAS, on April 23, 1991, under the subject calendar number, the Board granted an application for the reopening of the variance for an extension of term and for

an amendment to the variance legalizing changes in the interior design and layout on the cellar, first floor and second floor levels; and

WHEREAS, on February 11, 1997, under the subject calendar number, the Board granted an application for the reopening of the variance for an extension of term and for an amendment to the variance legalizing the increase in floor area at the first floor level; and

WHEREAS, on May 2, 2006, under the subject calendar number, the Board granted an application for extension of term of the variance and amended the variance to extend by one hour, daily, the hours of operation; and

WHEREAS, on May 10, 2013, the term of the variance grant expired and was not timely renewed; and

WHEREAS, accordingly, the applicant now seeks a waiver of BSA Rules of Practice and Procedure §1-07.3(b)(2); and

WHEREAS, as required under that Rule, applicant has demonstrated that the use has been continuous since the expiration of the term of the grant and that substantial prejudice would result without such a waiver; and

WHEREAS, in addition, the applicant seeks to: (1) extend the time to obtain a Certificate of Occupancy and (2) extend the term of the variance for an additional ten (10) years; and

WHEREAS, on February 11, 1997, under the subject calendar number, the Board requested that a new certificate of occupancy be obtained by February 11, 1998; and

WHEREAS, the time to obtain a new certificate of occupancy has expired; and

WHEREAS, accordingly, the applicant now also seeks a waiver of BSA Rules of Practice and Procedure § 1-07.3(d)(2); and

WHEREAS, in response to questions raised in hearing, the applicant represents that there have been no noise or sound complaints subsequent to the 2006 decision, that there are sprinklers throughout the building, and that the lack of fire alarms in the PCE is a grandfathered condition; and

WHEREAS, the Fire Department, City of New York accepts the secondary means of egress being fire escapes and has no objection to the lack of interior fire alarms in the subject PCE; and

WHEREAS, the Board finds that a ten-year extension is appropriate, with the conditions set forth below.

Therefore it is Resolved that the Board of Standards and Appeals waives the Rules of Practice and Procedure, and reopens and amends the resolution, dated May 10, 1983, so that as amended this portion of the resolution shall read: “to permit an extension of the term of the variance for a term of ten (10) years; *on condition* that the expansion shall substantially conform to drawings as filed

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with this application, marked 'Received October 5, 2015'– (8) sheets; and *on further condition*:

THAT this grant shall be limited to a term of ten (10) years from May 10, 2013, expiring May 10, 2023;

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

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

THAT a new Certificate of Occupancy for the premises shall be obtained by October 27, 2016;

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) and/or configuration(s) not related to the relief granted.”

Adopted by the Board of Standards and Appeals, October 27, 2015.

A true copy of resolution adopted by the Board of Standards and Appeals, October 27, 2015.

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Copies Sent

To Applicant

Fire Com'r.

Borough Com'r.

