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Borough of Queens

Community Board 8

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District Manager, Marie Adam-Ovide

PUBLIC HEARING:

BSA Cal. No.: 65-94-BZ
144-02 Jewel Avenue
Flushing, New York

DATE:

Tuesday, April 19, 2016

PLACE:

Rabbinical Seminary of America
76-01 147th Street
Flushing, NY 11367

ATTENDANCE:

Zoning Chairperson, Steven Konigsberg
Dr. Allen Bennett

Others in attendance:

Todd Dale - Rothkrug, Rothkrug & Spector LLC
Dr. Mordechai Hoschander, VP, KGH Realty Corp.
Rebecca Hoschander, President, KGH Realty Corp.
Marie Adam Ovide, CB 8 District Manager
Alma Karassavidis, CB8 Staff Member

Purpose of Public Hearing

This application seeks an Extension of Term for BSA Cal. No. 65-94-BZ, for the premises located at 144-02 Jewel Avenue.

Zoning Chairperson Steven Konigsberg called this Public hearing to order at 7:30 p.m. He introduced the Board Members present and explained the rules governing the Hearing. There were two (2) Board Members present; therefore, there was not a quorum. A vote will be taken by the full Board at the Community Board Meeting on May 11, 2016 at the Hillcrest Jewish Center, located at 183-02 Union Turnpike at 7:30 p.m.

Ordinarily there would be the opportunity for members of the public who may have signed up to speak. As I understand from the District Manager, no one from the public did sign up. Please present the case in support of the application.

Presentation by applicant, represented by Todd Dale

This application seeks an extension of term of a variance previously granted, pursuant to §72-21 of the New York City ZR, permitting in an R4B zoning district within a former two story and cellar dwelling with accessory garage the change in use to a community facility (UG4) on the ground floor and cellar with commercial offices (UG6) in the garage and the enlargement of the building which does not conform to district use regulations and creates non-compliance with side yard requirements based on the

change in use. The site is a corner lot at the intersection of Jewel Avenue and Main Street. It is in an R4B zoning district, with twenty feet frontage on the south side of Jewel Avenue and 100 feet frontage on the east side of Main Street. The total lot area is 2,000 SF. As noted, it is currently developed with a cellar and two-story structure. The original buildings were constructed circa 1940. There is a valid current Certificate of Occupancy that was issued on June 26, 1998 subsequent to the initial action under Cal. No. 65-94-BZ. That action took place on March 5, 1996. The original variance was granted. It legalized a medical facility in the cellar and the first floor of the building. Of note; those uses are permitted in the underlying R4B zoning district; however, there was a previous Certificate of Occupancy issued in 1956 and that is why a change of use needed to be reflected in the variance because the previous Certificate of Occupancy listed residential use. It legalized the medical facility in the cellar and the first floor. It permitted an office on the second floor and also granted the right to enlarge the building that existed at the time by connecting that building in front with a garage at the rear of the lot. When this was granted, it was for a twenty (20) year term, expiring March 5, 2016. This application was filed within the permitted thirty (30) days of expiration. The proposal is to seek to extend the term for twenty (20) years based on the previous grant. No changes are proposed to the use and no physical changes to the building. There are three (3) open ECB violations and three (3) open DOB violations that show up on the DOB website. Five (5) of these six (6) violations actually pre-date the previous grant. They were issued from 1990 to 1993 and pertain to occupancy contrary to the C of O issues. Those violations still appear as being open due to administrative issues. We are not sure what the history of that is. Subsequent to those violations, DOB did issue a C of O and the BSA did issue the variance. In conjunction with updating the C of O we will address these issues with DOB. As far as changing the open status we are not sure why they are still showing it as open. The sixth violation pertains to a missed boiler inspection report in 2011. However, boiler inspections were completed as required from 2012 through 2015. We are not sure why this still remains open but we can address that during the C of O process.

Questions by the Board Members:

Steven Konigsberg: When I originally received the application through the Community Board 8 office, there were some issues that I had. They were not with the existing building nor with the application, but with the technical items listed in your application. I will go through them and I will pause to give you the opportunity to respond to any and all of them, or perhaps to make some corrections or amendments as we go forward. The first item that I did note was that the application itself has a document of compliance.

Answer (Todd Dale): A Certificate of Inspection and Compliance, which is a standard form which the BSA requires us to file.

Steven Konigsberg: Are you the person who signed off on that?

Answer (Todd Dale): I am the person who signed off on that.

Steven Konigsberg: In what capacity did you sign that document?

Answer (Todd Dale): As a representative of the firm that is filing the application.

Steven Konigsberg: Would that be in your official capacity as an attorney?

Answer (Todd Dale): Sure.

Steven Konigsberg: Is there any reason why you didn't sign it as Esq., Attorney at Law, or the like?

Answer (Todd Dale): No, I signed my name as I have for probably 200 applications on file with the BSA.

Steven Konigsberg: It also says that you personally inspected the premises and surrounding area in February 2016. Was there a particular date?

Answer (Todd Dale): I don't recall the exact date. Generally we just list the month and the year. I was actually there a couple of times. One time just to visit the site and another time to take photographs required for the application. There were multiple dates in February.

Steven Konigsberg: When I asked a question about the signature on the document through the CB8 office, our District Manager was in touch with Mr. Jones from BSA.

Marie Adam-Ovide: At first Mr. Jones said there was no issue and that you were also an architect. However; when I spoke to Carlo Costanzas, who is the examiner, he said it should have been signed by an architect.

Answer (Todd Dale): I would say that Carlo is incorrect. Down at the bottom of the application, it says: Applicant/Agent signature (Registered Architect/Engineer seal as appropriate). In this instance the seal is not required because I am not an architect or engineer.

Steven Konigsberg: As you said earlier you are signing it as an attorney at law/agent on behalf of the applicant. Is that right?

Answer (Todd Dale): Correct.

Steven Konigsberg: The application lists the owner of the property as KGH Realty Corp.

Answer (Todd Dale): Correct.

Steven Konigsberg: The Affidavit of Ownership and Authorization is signed by Mordechai Hoschander. It lists Mr. Hoschander's capacity with the corporation as a "member". Can you tell us what a member of a corporation is?

Answer (Todd Dale): A member of the corporation in this instance would be someone who is involved in the corporation either as an officer or registered owner.

Steven Konigsberg: Will you please ask Mr. Hoschander if he is an officer of the corporation?

Answer (Todd Dale): Dr. Hoschander, are you an officer?

Answer (Dr. Hoschander): Yes, I am officially the Vice President.

Steven Konigsberg: Okay. Is it possible to amend the application to reflect his status as the Vice President? I have never heard of a "member" of a corporation. I know there are officers and shareholders, or a principal if it is a sole ownership.

Answer (Todd Dale): We could definitely change the term member to Vice President. Just to clarify though, we will not change it until after we receive the comments back from the BSA.

Steven Konigsberg: I don't know if the BSA will make an issue out of it or not. I am only speaking in terms of our application tonight. Whenever you get around to it, if you feel like it is something you want to do, that's fine. Also, the prior BSA action, which is listed in the history of the previous application, lists the owner of the property as KGH Corporation, which is a different corporate entity than what you list as being the current owner. Was that an oversight or error? Look at the BSA grant twenty (20) years ago.

Answer (Todd Dale): I was not involved with that particular application. I am not sure why KGH Corporation was listed. I don't know if maybe the name of the corporation changed.

Answer (Dr. Hoschander): It didn't actually change. The official name is K.G.H Realty. They were just not as particular about it being KGH Realty Corp. as opposed to KGH Corp.

Steven Konigsberg: That may or may not be something that you would want to clarify when you are in front of the BSA.

Answer (Todd Dale): I was not involved with that application. It was a different attorney, Joseph Morrison. I would not make any statement nor make any issue with correcting the previous resolution. Our current resolution reflecting KGH Realty can be changed to add dots to KGH (K.G.H). The KGH was pulled from the ACRIS site and that is how it was listed (without the dots). We will get it corrected.

Steven Konigsberg: My only concern is with the assertion that there has been no change of ownership since the original application twenty (20) years ago. Yet the original BSA resolution is to an entity that is not the entity making the application tonight; if indeed there is such an entity.

Answer (Todd Dale): There has been no change in ownership. I cannot speak for the previous resolution. As an experienced attorney dealing with BSA matters, I can tell you that the BSA often,

especially during the era of 1990-2000, has several typos within their resolutions that are constantly causing issues on a much grander scale.

Steven Konigsberg: The other question was regarding the Certificate of Occupancy. The current C of O would allow retail activity in addition to the professional offices on the first floor. Yet that was never part of what was in the original BSA resolution and that is not what you are seeking here tonight either. You are not seeking to continue that use on the first floor. Is that correct?

Answer (Todd Dale): The grant that we are seeking would not seek any changes from the conditions of the previous grant. As far as the C of O being listed and the uses listed, I was not the architect or expeditor who was involved with that. I can't speak as to why it was written that way. Often, DOB is the final agency determining what actually goes in those uses. So it was the DOB that listed those uses. When we go to update the C of O we will make sure that it reflects the conditions in this current grant.

Dr. Hoschander: I would add that in twenty (20) years we have never instituted any retail in that facility. Bearing in mind that there was a variance, we honored that 100%.

Steven Konigsberg: Is there a requirement that there be two exits from the cellar?

Answer (Todd Dale): I would have to check with an architect on that. I do not know.

Answer (Dr. Hoschander): There are two exits.

Steven Konigsberg: It wasn't that clear from the plans. One is from the side, where the entrance goes down. The other is through the front on Jewel Avenue.

Answer (Dr. Hoschander): Actually they both exit to Main Street, but it comes up from underneath. There are two paths of egress from every office in the facility.

Answer (Todd Dale): The cellar floor does list two means of egress on the cellar floor plan.

Marie Adam-Ovide: Anthony Iuliano from DOB said that one is required but two is fine.

Steven Konigsberg: That concludes all the questions that I have regarding the application. It is noted that there was no public participation as no one from the community signed up to speak.

Dr. Allen Bennett made a motion to approve the application for extension of the variance for BSA Cal. No. 65-94-BZ, 144-02 Jewel Avenue, Kew Gardens Hills, Flushing, NY seconded by Steve Konigsberg.

This matter will come before the entire board at our regular monthly meeting on Wednesday, May 11th at 7:30 p.m. at Hillcrest Jewish Center, 183-02 Union Turnpike. It is not necessary for the applicant to attend the meeting personally. If your representative wants to sign up for public participation only if there are any questions that come up that may need to be addressed.

Vote:

2 in favor

0 opposed

0 abstentions

Board Members who voted in favor: Dr. Allen Bennett and Steven Konigsberg.

Board Members who voted against: None

Adjournment

This Public Hearing adjourned at 7:48 p.m.

Respectfully submitted

Alma Karassavidis, CB8 Staff

April 28, 2016