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The City of New York Manhattan Community Board 8

September 28, 2015

Kerri J. O'Brien
Deputy Commissioner
State Liquor Authority
80 South Swan Street, Suite 900
Albany, New York 12210-8002

**RE: Uncle Abies Deli on First Inc., dba 2nd Avenue Deli, 1442 First Avenue (@ 75th Street)-
Alteration application for Liquor, Wine and Beer**

Dear Ms. O'Brien:

At the September 9, 2015 Land Use meeting of Manhattan Community Board 8, the following recommendation was adopted by the Community Board a vote of 35 in favor, 0 opposed, 2 abstentions and 1 not voting for cause:

WHEREAS the applicant wishes to expand the existing restaurant to the second floor and extend the liquor license to that floor; and

WHEREAS Application # 120152244 was filed with the New York City Department of Buildings (DOB). The application was denied on March 6, 2012 with an objection pursuant to Section 32-421 of the Zoning Resolution stating that:

"Proposed construction of convenience stair connecting the first and second story thereby extending the Use Group 6 commercial use above the first story in a building constructed prior to September 17, 1970 with residential uses on the third and fourth floors is contrary to zoning."; and

WHEREAS an application (67-12 BZ) was consequently filed with the Board of Standards and Appeals (BSA) on March 21, 2012, for a variance to allow Use Group 6 in the second story of 1442 Second Avenue; and

WHEREAS on April 18, 2012, Manhattan Community Board 8 voted to **disapprove** the variance application by a vote of 34 in favor, 2 opposed 2 abstentions and 2 not voting for cause. Community Board 8 had concerns regarding open violations at the location, the relocation of former tenants on the second floor, a non ADA compliant ramp built in the middle of the sidewalk, an expired Temporary Certificate of Occupancy (TCO); the owner changing the usage on the second floor from the existing two apartments to one apartment and a non-commercial art gallery; the application fails to be in compliance with Local Law 5887 when modifying a building entrance; and the applicant has failed to comply with Local Law 19 and no Certificate of Non Harassment has been filed with HPD as required when a change of use is made; and

WHEREAS on March 23, 2013, the application was withdrawn at the BSA; and

WHEREAS the applicant appeared at the Street Life Committee of Community Board 8 on September 2, 2014, requesting extension to the 2nd floor of the liquor license at 1442 2nd Avenue. The committee had concerns about the zoning issue raised by the above mentioned BSA variance and requested that the applicant return to the October committee meeting with more information. The applicant returned to the committee's meeting on October 7, 2014 stating that the issue related to stair construction and DOB had now issued a building permit. The applicant did not directly respond to questions relating to Section 32-341 of the Zoning Resolution and the committee requested the applicant return to a subsequent meeting; and

WHEREAS the applicant failed to appear at subsequent committee meetings; and

WHEREAS Community Board 8 requested DOB to reconsider the issue of Section 32-421 of the Zoning Resolution as it pertains to this application; and

WHEREAS after a special audit, on October 28, 2014 DOB indicated the applicant failed the special audit and requested that the applicant provide BSA approval to address Section 32-421 of the Zoning Resolution; and

WHEREAS on or after January 15, 2015 DOB revoked the building permit for the subject site and issued a stop work order; and

WHEREAS in January, 2015 Community Board 8 became aware that the applicant had proceeded to the State Liquor Authority (SLA) unbeknownst to CB 8 and that SLA granted a license for the second floor of the establishment; and

WHEREAS Community Board 8 informed SLA of the revocation and stop work order issued by DOB; and

WHEREAS on February 12, 2015 SLA rescinded its approval of a license for the 2nd floor of the subject premises; and

WHEREAS the applicant appeared before the Street Life Committee on September 1, 2015 requesting again to extend the liquor license to the second floor and to extend the hours of the license to 4 am; and

WHEREAS the applicant's architect indicated there is DOB approval for this extension: and.

WHEREAS committee members expressed concern that while currently the restaurant generally closes at midnight and the applicant is requesting that the hours for the liquor license be 4 am; and

WHEREAS the application was considered by the full Community Board 8 at the Land Use Committee meeting on September 9, 2015 and;

WHEREAS the community believes that granting extension of the restaurant to the second floor is not permitted by the Zoning Resolution and has requested the Department of Buildings to investigate this issue again and;

WHEREAS the community board believes that permitting the extension legitimized the loss of residential units and;

WHEREAS Community Board 8 remains concerned about the provision of handicapped access to the existing restaurant, and the other concerns of the community board when it disapproved the BSA variance

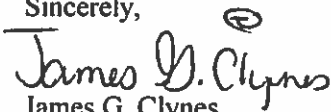
for this establishment and that DOB records indicate that ECB Violation Number 34949662N remains open although a penalty of \$500 was imposed and paid and;

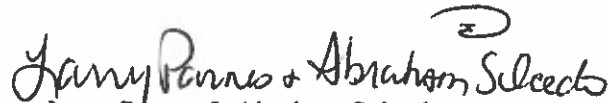
WHEEREAS Community Board 8 believes that the applicant has not worked cooperatively with the board; therefore

BE IT RESOLVED THAT this application is **DISAPPROVED**.

Please advise this office of any action taken regarding this matter.

Sincerely,


James G. Clynes
Chair


Larry Parnes & Abraham Salcedo
Co-Chairs, Street Life Committee

Cc: Honorable Bill de Blasio, Mayor of the City of New York
Honorable Gale Brewer, Manhattan Borough President
Honorable Liz Krueger, NYS Senator, 26th Senatorial District
Honorable Dan Quart, NYS Assembly Member, 73rd Assembly District
Honorable Rebecca Seawright, NYS Assembly Member, 76th Assembly District
Honorable Ben Kallos, NYC Council Member, 5th Council District
Honorable Daniel Garodnick, NYC Council Member, 4th Council District