



**Board of Standards
and Appeals**

250 Broadway, 29th Floor
New York, NY 10007
212-386-0009 - Phone
646-500-6271 - Fax
www.nyc.gov/bsa

ZONING (BZ) CALENDAR
Application Form

BSA APPLICATION NO. _____
CEQR NO. _____

Section A

Applicant/
Owner

Eric Palatnik, P.C.			OWNER OF RECORD		
NAME OF APPLICANT			ADDRESS		
32 Broadway, Suite 114			Aleksandr Finkelshteyn		
ADDRESS			LESSEE / CONTRACT VENDEE		
New York	NY	10004	1733 Sheepshead Bay Road		
CITY	STATE	ZIP	ADDRESS		
212	425-4343		Brooklyn	NY	11235
AREA CODE	TELEPHONE		CITY	STATE	ZIP
212	968-7129				
AREA CODE	FAX				
eric@ericpalatnikpc.com					
EMAIL					

Section B

Site
Data

2102-2124 Avenue Z 11235
STREET ADDRESS (INCLUDE ANY A/K/A) ZIP CODE

South side of Avenue Z between East 21st Street and East 22nd Street
DESCRIPTION OF PROPERTY BY BOUNDING OR CROSS STREETS

7441	371	Brooklyn	15K	n/a
BLOCK	LOT(S)	BOROUGH	COMMUNITY DISTRICT	LANDMARK/HISTORIC DISTRICT
Hon. Chaim Deutsch	R4			29a
CITY COUNCIL MEMBER	ZONING DISTRICT (include special district, if any)			ZONING MAP NUMBER

Section C

Dept of Building
Decision

BSA AUTHORIZING SECTION(S) 72-21 for VARIANCE SPECIAL PERMIT (Including 11-41)

Section(s) of the Zoning Resolution to be varied 24-11, 24-521, 24-34 and 24-31

DOB Decision (Objection/ Denial) date: April 27, 2015 Acting on Application No: 320958308

Section D

Description

(LEGALIZATION YES NO IN PART)

This is an application for bulk variance pursuant to ZR Section 72-21 to vary the provisions of ZR Section 24-11 (floor area and lot coverage), ZR Section 24-521 (wall height), ZR Section 24-34 (front yard), and ZR 25-31 (parking spaces), and allow for a four (4) story building with Use Group 6 commercial offices on the first and second floor and community facility uses on the third and fourth floor.

Section E

BSA History
and
Related Actions

If "YES" to any of the below questions, please explain in the STATEMENT OF FACTS

	YES	NO
1. Has the premises been the subject of any previous BSA application(s)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
PRIOR BSA APPLICATION NO(S): <u>1423-39-BZ, 118-10-BZ</u>		
2. Are there any applications concerning the premises pending before any other government agency?...	<input checked="" type="checkbox"/>	<input type="checkbox"/>
3. Is the property the subject of any court action?.....	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Section F

Signature

I HEREBY AFFIRM THAT BASED ON INFORMATION AND BELIEF, THE ABOVE STATEMENTS AND THE STATEMENTS CONTAINED IN THE PAPERS ARE TRUE.

Signature of Applicant, Corporate Officer or Other Authorized Representative: Eric Palatnik

Eric Palatnik Attorney at Law

Print Name Title

SWORN TO ME THIS 12th DAY OF FEBRUARY 2015
 NOTARY PUBLIC, STATE OF NEW YORK
 NO. 01900037433
 QUALIFIED IN KINGS COUNTY
 COMMISSION EXPIRES 08/18/07
 NOTARY PUBLIC

ERIC PALATNIK, P.C.

ATTORNEY AT LAW
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STATEMENT OF FACTS AND FINDINGS

2102-2124 Avenue Z
Block 7441, Lot 371
Brooklyn, New York (the "Premises")

This application is filed pursuant to Section 72-21 of the Zoning Resolution ("ZR") and requests a variance to permit the redevelopment of the Premises with a four (4) story mixed-use building. To facilitate this development, which is contrary to both the use and bulk regulations of the R4 district in which the Premises is located, the application seeks waivers of the following ZR sections: use (ZR 22-00); lot coverage (ZR Section 24-11); wall height (ZR Section 24-521); front yard (ZR Section 24-34); and parking (ZR Section 25-31).

The Premises is a uniquely-shaped trapezoidal lot, which is currently improved upon with a Use Group 16 automotive service station which has been the subject of previous Board approvals since 1958 (*see BSA Cal. No. 1423-39-BZ, discussed below*). The proposed development would contain 7,964 square feet of Use Group 6 retail stores on the ground floor, 7,964 square feet of Use Group 6 professional offices on the second floor, and 7,964 square feet of Use Group 4 community facility space on each of the proposed third and fourth floors.

There are three (3) unique factors which, in the aggregate, give rise to practical difficulty and unnecessary hardship in complying strictly with the applicable zoning requirements, thereby necessitating a variance:

- (1) The unique shape of the Premises, and its location vis-a-vis the surrounding streets.

The Premises is a trapezoidal lot that varies in depth from 22.05 feet (east), to 57.59 feet (west); its average depth is just 39.82 feet. By itself, this physical constraint would be a challenge. When you consider that the Premises is bound on all sides by street frontages, however, it is evident that this shape is a genuine practical difficulty that frustrates the development of an as-of-right building. Specifically, given the constrained and unique shape of the Premises, vis-a-vis the surrounding streets, compliance with the required lot coverage and yard requirements is essentially impossible.

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(2) The location of the Premises within Flood Zone.

The Premises is now located in Flood Zone X, following changes to the FEMA flood maps following Hurricane Sandy. As a result, the proposed building requires the installation of a concrete mat slab, which increases the cost of construction by an additional \$1,793,687.00. And, were the required parking spaces located below grade, adding cellar and sub-cellar parking levels would increase the premium cost by an estimated \$701,829; from \$1,793,687 to \$2,495,516. Alternatively, locating the required parking at grade would consume the area of the proposed building itself.

(3) The historic use of the Premises as a Use Group 16 automotive service station.

The historic use of the Premises as a Use Group 16 automotive service station has caused subsurface soil contamination that must be remediated at an estimated cost of \$191,562.

Each of these factors contributes to the unique hardship that prevents the Premises from being redeveloped as-of-right. The proposed development would allow the owner of the Premises to overcome these hardships, and to improve the Premises with a new building.

Although it would not comply with the use and bulk requirements of the underlying R4 district, the proposed development will allow the owner to overcome the hardships inherent to the Premises, while maintaining neighborhood character. As documented in the enclosed Land Use Study prepared by Urban Cartographics, the proposed development's bulk and use is consistent with the surrounding area. Avenue Z serves as the neighborhood's shopping district with commercial uses lining the street for several blocks in either direction from the Premises—in spite of pure residential zoning. Moreover, a significant number of buildings in the area are taller than what is proposed.

We respectfully submit that each of these factors further support the granting of the instant variance request.

Enclosed with this application are the following documents to assist in the Board's review:

1. A feasibility study prepared by J.S. Freeman Associates (the "Feasibility Study"), concluding that only the proposed development would allow the applicant to earn a reasonable return;
2. An Engineering Feasibility Analysis & Budget Estimate Report for the as-of-right and proposed scenarios, dated March 28, 2015 and prepared by Jackman J. Prescod, P.E (the "Prescod Report");
3. A letter dated April 22, 2015 by Environmental Business Consultants (the "EBC Letter") documenting the costs to remediate the adverse sub-surface environmental conditions;

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4. A Land Use Study prepared by Urban Cartographics dated March 3, 2015 (the "Land Use Study") documenting that the proposed development's bulk and use are consistent with surrounding developments, and the neighborhood in which the Premises is located.

EXISTING CONDITIONS

The Premises is a trapezoidal, flatiron-shaped lot with 7,964.60 square feet of lot area. Its depth (measured from Avenue Z) varies from 22.05 feet (east), to 57.59 feet (west); its average depth is just 39.82 feet; its width varies only slightly, from 200 feet (north) to 203.15 feet (south).

The Premises is bounded by streets on all sides. Specifically, the street frontages of the Premises are as follows:

- To the north, the Premises contains 200 feet of frontage along Avenue Z;
- To the south, the Premises contains 203.1 feet of frontage along Jerome Avenue;
- To the east, the Premises contains 22 feet of frontage at its tip, along 22nd Street;
- To the west, the Premises contains 57.6 feet of frontage at its base, along 21st Street.

The Premises is identified on the City's tax maps as Block 7441, Lot 371, and is located within Brooklyn's Community District 15. It is located in an R4 district and is improved upon with a Use Group 16 automotive service station, which has been the subject of previous Board approvals since 1958 (*discussed below*).

The Premises is known to have sold fuel products since as early as 1939. It has also been used to perform car washes, minor auto repairs and automotive sales. As referenced in the EBC Letter, it remained in use as a gas station until at least 1995 when underground gasoline tanks were removed. Thereafter, the Premises was utilized as a Use Group 16 automotive service station with accessory auto sales. It is currently developed with a one-story automotive service building with 1,440 square feet of floor area, or a built FAR of 0.18.

PREVIOUS BSA APPROVALS

The Board has exercised jurisdiction over the Premises since 1958 when, under BSA Cal. No. 1423-39-BZ, it granted a variance to permit a gasoline service station for a term of 15 years.

Subsequent to the 1958 grant, the Board granted the following extensions of term:

- On November 27, 1973, the Board extended the term of the variance for ten years;
- On December 20, 1983, the Board extended the term for ten years;
- On February 22, 1995, the Board extended the term for ten years. That term expired on December 9, 2003;

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- On July 12, 2011, the Board, under BSA Cal. No. 118-10-BZ, reinstated the previous approvals and amended the grant to reflect a change in use from a gasoline service station to an automotive repair station with accessory uses including auto sales.

(Enclosed with this application is the most recent BSA resolution and approved plans.)

PROPOSED CONDITIONS

The variance sought by this application is to allow for the development is a four (4) story mixed use building containing 31,858 square feet of floor area (4.00 FAR), which will stand at a height of 48'-1".

The proposed building would be programmed as follows:

- **Ground Floor:** Will contain 7,964 square feet of floor area, including three (3) Use Group 6 retail stores, with frontage along Avenue Z, and a lobby area to access the proposed building's upper floors.
- **Second Floor:** Will contain 7,964 square feet of floor area, including three (3) Use Group 6 professional offices, each accessible via a shared corridor.
- **Third and Fourth Floors:** Will each contain 7,964 square feet of floor area, including three (3) Use Group 3 community facility spaces, each accessible via a shared corridor.

The location of the Premises in a Flood Zone requires construction to occur approximately three (3) feet below the Base Flood Elevation ("BFE") of 12.00 (*the building grade will be at Elevation 9.08*). As a result, the proposed building requires the installation of a concrete mat slab, which increases the cost of construction by an additional \$1,793,687.00.

AS-OF-RIGHT DEVELOPMENT SCENARIO

Developing the site in compliance with the Zoning Resolution would allow for the construction of a three (3) story community facility building. The total floor area for the building would be 5,146 square feet, resulting in an FAR of 0.7, which is below the permitted FAR of 2.00. The total height of the building would be 27'-1", below the maximum 35' height permitted in the R4 district.

In the as-of-right scenario, the building would be programmed as follows:

- **Sub-cellar:** Will contain three (3) parking spaces, accessible via a car elevator;
- **Cellar:** Will Contain seven (7) parking spaces;

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- **Basement (1,715 square feet):** Will contain only 749 square feet of useable floor area for community facility uses;
- **First and Second Floors (1,715 square feet):** Will each contain only 944 square feet of usable floor area for community facility use.

As with the proposed development, the location of the Premises in a Flood Zone requires construction to occur well below the Base Flood Elevation (“BFE”) of 12. The as-of-right building grade will be at Elevation 9.08 and the basement is at Elevation 7.59. The cellar and sub-cellar parking levels are each ten (10) feet tall, resulting in a total depth below grade of twenty (20) feet. As a result, there are additional construction costs of \$2,495,516.00 to install two (2) levels of cellar parking and a concrete mat slab.

DOB OBJECTIONS

The following description of the Objection issued by the New York City Department of Buildings is provided, as well as the below narrative of the Objection itself.

A. Use: (ZR Section 22-00):

- **Allowable:** Automotive (preexisting legal nonconforming), Residential, Community Facility;
- **Proposed:** Use Group 6 Retail, Use Group 6 Office, Use Group 4 Community Facility;

B. Floor Area (ZR Section 24-11):

- **Allowable:** Community Facility FAR of 2.00 (15,929 square feet) excluding the cellar level;
- **Proposed:** An FAR of 4.00 (31,858 square feet);

C. Lot Coverage (ZR Section 24-11):

- **Maximum Permitted:** 60%;
- **Proposed:** 100%;

D. Height (ZR Section 24-521):

- **Maximum Permitted:** 35’;
- **Proposed:** 48’-1”;

E. Front Yards (ZR Section 24-34):

- **Required:** 15’
- **Proposed:** None

F. Parking (ZR Section 25-31):

- Required: 32
- Proposed: None

Plans were filed with the Department of Buildings under Job Number: 320958308 to permit the proposed enlargement. The following objections, dated April 27, 2015 were issued:

"Proposed development of Use Group 6 building is contrary to ZR Section 24-11 (floor area and lot coverage), ZR Section 24-521 (wall height), ZR Section 24-34 (front yard), and ZR 25-31 (parking spaces) and proposed Use Group 6 local retail and office uses are contrary to ZR Section 22-00 and therefore must be referred to the NYC Board of Standards and Appeals."

SUGGESTED FINDINGS PURSUANT TO ZR § 72-21

Pursuant to ZR Section 72-21, the Board of Standards and Appeals has the authority to vary the strict application of the zoning regulations provided that five (5) findings of that section can be satisfied. Each of the findings is set forth and discussed individually below:

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A. Uniqueness

ZR § 72-21(a) provides that the Board must find:

that there are unique physical conditions, including irregularity, narrowness or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to and inherent in the particular #zoning lot#; and that, as a result of such unique physical conditions, practical difficulties or unnecessary hardship arise in complying strictly with the #use# or #bulk# provisions of the Resolution; and that the alleged practical difficulties or unnecessary hardship are not due to circumstances created generally by the strict application of such provisions in the neighborhood or district in which the #zoning lot# is located;

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There are three (3) unique factors which, in the aggregate, give rise to practical difficulty and unnecessary hardship in complying strictly with the applicable zoning requirements, thereby necessitating a variance:

- (1) The unique shape of the Premises, and its location vis-a-vis the surrounding streets.

The Premises is a trapezoidal lot that varies in depth from 22.05 feet (east), to 57.59 feet (west); its average depth is just 39.82 feet. By itself, this physical constraint would be a challenge. When you consider that the Premises is bound on all sides by street frontages, however, it is evident that this shape is a genuine practical difficulty that frustrates the development of an as-of-right building. Specifically, given the constrained and unique shape of the sides, vis-a-vis the surrounding streets, compliance with the required lot coverage and yard requirements is essentially impossible.

On review of the surrounding area, it is clear that this condition is absolutely unique. The flatiron shape of the Premises results from Jerome Avenue's diagonal cut through the otherwise rectilinear street grid of the Sheepshead Bay neighborhood. Along Jerome, a series of five trapezoidal blocks are created by such intersections. The Premises is the last and smallest of such blocks; notably causing it to have street frontages on all four of its sides.

The only property nearby that could be said to have a remotely similar condition is on the block directed west of the Premises (2981 Ocean Avenue; Block 7441, Lot 271), which is also bound by streets. However, that property can easily be distinguished from the Premises: It is located in an R7A district, which has relaxed yard requirements, and a substantially increased floor area ratio. And, it is more than twice as large as the Premises. *(A third property bound on all sides by streets belongs to the St. Mark's Roman Catholic Church at 2606 East 19th Street; Block 7463, Lot 5. That property was developed as a not-for-profit community facility, and is more than five times as large as the Premises.)*

No other lots in the surrounding area are bound on all sides by streets. And, with few exceptions, the surrounding lots are rectangular, and have just one or two street frontages.

The unique wedge-like shape of the Premises physically prevents a practical as-of-right development. As depicted on Drawing 2 in the enclosed plan set, an as-of-right community facility building will be twenty-four (24) feet across at its widest point, which would quickly taper to just twelve (12) feet, and then to nothing. This results in floor plates that are not only extraordinarily small, but impractically narrow. What's more, the area that would be left to satisfy the parking requirements of the R4 district do not allow a usable parking area to be designed unless parking is located at below grade. Accordingly, the requested variance of the required zoning regulations for lot coverage, parking and yards is made necessary as a direct result of the unique physical conditions of the Site.

(2) The location of the Premises within Flood Zone.

The Premises is now located in Flood Zone X, following changes to the FEMA flood maps following Hurricane Sandy. In short, the flood proof construction requirements and the low elevation of the Premises give rise to a host of extraordinary costs. In the as-of-right scenario, the cost of excavation of construction related to site and foundation work combine to place a \$6,032,831 premium on the cost of developing the Premises. In fact, in the as-of-right scenario, such work comprises the overwhelming majority of the estimated \$9,629,341 total construction cost. In the proposed alternative, which omit below grade levels, the cost of the development is just \$6,784,333, for a building that is substantially larger than what is permitted as-of-right.

An explanation of the hardship costs begins with the enclosed Engineering Feasibility Analysis & Budget Estimate Report for the as-of-right and proposed scenarios, dated March 28, 2015 and prepared by Jackman J. Prescod, P.E. The reports explains that any development with a building grade Elevation of 9.08' would require additional costs since the location of the Premises in a Flood Zone requires construction below the Base Flood Elevation ("BFE") of 12.0. The work made necessary by the location of the Premises in a flood zone includes various mitigation measures, including but not limited to, flood resistant materials, walls which are substantially impermeable to the passage of water and walls, floors and flood shields designed to resist hydrostatic, hydrodynamic and other flood related loads, and site dewatering. *(We reference the publication "Retrofitting Buildings for Flood Risk by the NYC Department of City Planning at Page 30, which is available at http://www.nyc.gov/html/dcp/pdf/retrofitting/retrofitting_complete.pdf).* As a result, the foundation and groundwork for the as-of-right development would cost \$2,495,516.00 to install two (2) levels of cellar parking and a concrete mat slab. The foundation and groundwork for the proposed development (which omits levels below grade) will only cost \$1,793,687.00.

The additional work necessitated by the Premises' location in the flood zone, and described in detail in the Engineering Feasibility Analysis & Budget Estimate Report were incorporated into the construction cost estimated created by McQuilkin Associates, LLC, the project construction consultants. As explained within, in the as-of-right scenario, the cost of excavation of construction related to site and foundation work combine to place a \$6,032,831 dollar premium on the cost of developing the Premises; where the entire as-of-right construction estimated is \$9,629,341.

In the proposed alternative, which omit below grade levels, the cost of the development is just \$6,784,333, for a building that is substantially larger than what is permitted as-of-right.

The Premises is not the only property in the subject flood zone. It is, however, the only vacant site that is forced to develop under the new rules. Said otherwise, all of the lots in the surrounding area are developed upon with buildings that did not have to comply with the new flood proofing requirements; there are no vacant or undeveloped lots (parking lots, storage yards) in the surrounding 400 feet. Only the Premises must comply with these extremely costly requirements if it is to make a return.

Therefore, the above-mentioned factors constitute unique, physical conditions which, when considered in the aggregate, create unnecessary hardship and practical difficulty in developing the site in compliance with applicable zoning regulations.

- (3) The historic use of the Premises as a Use Group 16 automotive service station.

The historic use of the Premises as an automotive service station has caused subsurface soil contamination. As demonstrated in the enclosed letter dated April 22, 2015, prepared by Environmental Business Consultants ("EBC"), it is estimated to cost \$191,562.00 to remediate the sub-surface environmental conditions.

The Premises has historically been used as a gas station, along with a car wash, minor auto repairs, and automotive sales. As referenced in the Environmental Remediation Letter, it remained in use as a gas station until at least 1995 when the underground gasoline tanks were removed. Thereafter, the Premises was used as an automotive service station with accessory auto sales.

The EBC letter concludes that it is likely that significant levels of contamination remain on and off of the Premises and will be encountered during redevelopment. When the contamination is exposed, a new spill file will be reported to the New York State Department of Environmental Conservation (*the "NYSDEC"*) as required by law. It is important to note that due to the NYSDEC's cleanup standards that were revised in 2010, it is likely that additional remediation of the Premises will be required to obtain spill closure.

As a result of the anticipated remedial activity, EBC recommends contingency costs of at least \$191,562.00 as part of the owner's redevelopment plans. This activity would likely consist of a combination of excavation/disposal, chemical oxidant treatment and a vapor barrier / venting system beneath the new building's foundation. Furthermore, any contaminated soils or materials found at the Premises must be managed, transported and disposed of in accordance with NYSDEC regulations at a significant cost to the owner.

B. Reasonable Return

ZR § 72-21(b) provides that the Board must find:

That because of such physical conditions there is no reasonable possibility that a #development#, #enlargement#, extension, alteration or change of #use# on the #zoning lot# in strict conformity with the provisions of this Resolution will bring a reasonable return, and that the grant of a variance is therefore necessary to enable the owner to realize a reasonable return from such #zoning lot#...

The development of the Premises in strict conformance with the applicable zoning regulations (pertaining to both use and bulk) will not provide a reasonable return. To

substantiate this fact, we include a feasibility study by J.S. Freeman Associates (the "Feasibility Study"), which compares the rates of return for the as-of-right community facility building with two cellar levels of parking and the proposed four-story mixed-use building.

With respect to the as of right development, according to the Feasibility Study, as show in the attached Schedule A, the differences between the value of the capitalized net operating income of \$1,041,000 and the development cost of \$13,541,000 is (12,527,000). Therefore the As of Right Development contains significantly less value than the total development cost and therefore, would not be considered feasible.

In contrast, the proposed four (4) story mixed-use building would yield a reasonable, positive return. As shown in the attached Schedule A, the differences between the value of the capitalized net operating income of \$10,643,000 and the development cost of \$10,623,000 is \$20,000. The proposed development contains slightly more value than the total development cost and is a significant improvement over the As of Right Development alternative.

C. Character of Neighborhood

ZR § 72-21(c) provides that the Board must find:

that the variance, if granted, will not alter the essential character of the neighborhood or district in which the #zoning lot# is located; will not substantially impair the appropriate use or development of adjacent property; and will not be detrimental to the public welfare;

The proposed development will not alter the essential character of the neighborhood, nor will it substantially impair the appropriate use or development of the adjacent properties, and it will not be detrimental to the public welfare.

As documented in the enclosed Land Use Study prepared by Urban Cartographics, the proposed development's bulk and use is consistent with surrounding developments. As depicted on Map 1, Avenue Z serves as the neighborhood's shopping district with commercial uses lining the street for several blocks in either direction from the Premises.

While single and two family homes rest to the south of the Premises beyond Jerome Avenue numerous commercial uses surround the Premises on its Avenue Z side. For example, across East 21st Street to the west of the Premises at 2981 Ocean Avenue (*Block 7441, Lot 271*) is a Rite Aid drug store. Across Avenue Z to the north of the Premises at 2101–2123 Avenue Z (*Block 7441, Lots 331–341*) is a series of two- and three-story mixed use buildings that include ground floor stores (*a convenience store, a laundromat, a hair salon, and a restaurant, among others*). Continuing east, at 2201–2211 Avenue Z (*Block 7441, Lots 444–448*), is another strip of two-story mixed use buildings with ground floor stores (*including a funeral parlor, a hair salon, a martial arts studio, and a real estate agent*).

As depicted on Maps 2 and 3, there are several larger buildings in the surrounding area that contain a higher FAR than the proposed 4.0 and rise taller than the proposed 48'-1" and four-story building. Map 4 depicts lot-line buildings with no front yards.

In terms of FAR, Map 2 depicts that directly northwest of the Premises at 2600 East 21st Street (*Block 7441, Lot 231*) is a seven-story apartment building that includes 52,360 square feet of floor area (*4.36 FAR*). Further west at 2951 Ocean Avenue (*Block 744, Lot 245*) is a six-story apartment building that contains 86,000 square feet of floor area (*4.1 FAR*).

In terms of height, Map 3 depicts that directly northwest of the Premises at 2600 East 21st Street (*Block 7441, Lot 231*) is a seven (7) story apartment building that stands at sixty-three (63) feet in height. Further west at 2951 Ocean Avenue (*Block 744, Lot 245*) is a six (6) story apartment building that stands at sixty (60) feet in height. To the southwest of the Premise sat 3025 Ocean Avenue (*Block 7465*) is a six (6) story apartment building that stands at sixty-one(61) feet in height. And, one block west of the Premises at Ocean Avenue is the St. Mark's Roman Catholic Church, with a main building height of approximately fifty (50) feet and a Venetian-style tower rising over one hundred(100) feet.

Lastly, as depicted in Map #4, there are many properties in the neighborhood similar to the proposed development which do not have any required yards. Across Avenue Z to the north of the Premises at 2101-2123 Avenue Z (*Block 7441, Lots 331-341*) is a series of ten (10) two (2) and three (3) story buildings with no front yard. Continuing east, at 2201-2211 Avenue Z (*Block 7441, Lots 444-448*) is another strip of five (5) two (2) story buildings with no front yard. To the northwest of the Site at 2965-2979 Ocean Avenue (*Block 7441, Lots 238-242*) is a strip of six (6) buildings with no front yard. And, the above-mentioned Rite Aid drugstore at 2981 Ocean Avenue (*Block 7441, Lot 271*) has no front yard.

Accordingly, the proposed development will be in context with the character of the neighborhood. It will not substantially impair the appropriate use or development of the adjacent properties, and will be an asset to the community.

D. Self-Created Hardship

ZR § 72-21(d) provides that the Board must find:

that the practical difficulties or unnecessary hardship claimed as a ground for a variance have not been created by the owner or by a predecessor in title; however, where all other required findings are made, the purchase of a #zoning lot# subject to the restrictions sought to be varied shall not itself constitute a self-created hardship;

The practical difficulties and unnecessary hardship affecting the Premises are due to the location of the Premises in a Flood Zone, which would require construction below the Base Flood Elevation ("BFE") of Elevation 12.00, where the building grade will be at Elevation 9.08, The unique triangular, flatiron shape of the zoning lot is burdensome and impractical for