

***COMMUNITY BOARD 11 QUEENS***  
***The City of New York***

**COMMITTEE REPORT - (REVISED 4-13-2010)**

TO: Board Members  
FROM: Christine Haider, Chair  
North Bayside/East Flushing Zoning Committee  
RE: BSA Cal. No. 23-10A through 26-10A  
39-39 223 Street & 223-09/15/19 Mia Drive  
DATE: March 25, 2010

On March 15, 2010, the North Bayside/East Flushing Zoning Committee met to discuss the above referenced BSA application. Present were Board Members, Christine Haider (Committee Chair and 1<sup>st</sup> Vice Chair), Henry Euler, Frank Skala, Sue Macinick, Ed Braunstein, Andy Rothman, Ocelia Claro, Rose Bruno, Mohan Jethwani, Jim Colasante, Christina Scherer, Paul DiBenedetto, Jerry Iannece (Chair), Laura James (3<sup>rd</sup> Vice Chair), and Dina Quandamatteo, community representative. Also present were Susan Seinfeld, District Manager and Dennis Ring, representing Councilman Halloran. Mr. Calvin Wong, Esq. and Angelo Costa, the architect, represented the applicant, Henry Huang, President of Mia & 223 Street Management Corporation. There were five residents from the community in attendance.

The owner has filed an Appeals Calendar case pursuant to the common-law doctrine of vested rights that the premises is substantially complete and the owner incurred considerable financial expenditure prior to the change in zoning (April 12, 2005) and should be permitted to complete construction. Certificates of Occupancy were not obtained within the two-year period subsequent to the rezoning. There is a stop work order on the property and the owner is not allowed to enter the premises. The premises are also subject of court action by an adjacent owner.

The site is a 22,859 sq. ft. zoning lot comprised of four individual tax lots each which are improved with a two-story single family dwelling. Each dwelling has two floors and a basement with a maximum height 23.4 ft. and a width of 27 ft. Access to the lots is provided by Mia Drive, a private road leading from 223<sup>rd</sup> Street. The dwellings share a driveway easement from Mia Drive. Permits were issued in 2004 before the site was rezoned from an R2 to an R1-2. The rezoning

created 5-foot deficiencies on two of the dwellings (the house fronting 223 Street and the other is the last of the four houses overlooking the Cross Island Parkway) making them non-compliant with the R1-2 zone.

Residents and Board members raised the following questions and concerns:

1. Two of the dwellings are connected to the same sewer line.
2. Water collects on the property and drains into an old pool.
3. The air conditioning units are within the 8 ft. required setback and must be moved.
4. Dwelling #4 is propped up by beams leaning on city trees.
5. How can Mia Drive be considered a through lot since the other side is the Cross Island Parkway.
6. Concern about sanitation pick-up and Fire Dept. access in an emergency.
7. Dwellings have been vacant for a very long time and there is a concern about the dwellings being compromised.
8. Mia & 223 Street Corporation actually bought the property in Nov. 2006, after the zoning change not "prior to a zoning amendment" as they represented in the application. Therefore, they created their own hardship.
9. The last violation issued was on February 9, 2010 for failure to post a fence permit. There has been \$57,985. in fines levied on the project. Of that amount, \$24,975. has been paid. All fines should be paid before any further work can be done.

Mr. Costa, the architect, said the applicant will have to correct all problems on the site with the drywells, the A/C unit, paving etc. A temporary C. of O. can be obtained for a 3-month period and be renewed every 3 months but they need permission from BSA to obtain these permits.

After much discussion, a motion was made by Frank Skala and seconded by Henry Euler to accept the application as presented. The committee voted *not* to recommend approval of the application. All members voted against (13) except Mohan Jethwani who recused himself from the vote due to a possible conflict of interest being that he is friendly with one of the lawyers representing the owners.