

**110-03-BZ**

**CEQR#03-BSA-165K**

APPLICANT - Eric Palatnik, P.C., for FAC Homeownership HDFC, owners.

SUBJECT - Application April 4, 2003 - under Z.R. §72-21 to permit the proposed construction of a four story residential building (Use Group 2), located in an R5 zoning district, which does not comply with the zoning requirements for height, setback, front and rear yards, and distance from a window to a rear lot line, contrary to Z.R. §§23-631, 23-45, 25-23, and 23-861.

PREMISES AFFECTED - 79 Walcott Street, between Richard and Van Brunt Streets, Block 596, Tentative Lot 12, Former Lots Numbers, 12-15, 22, 23, 49 and 50, Borough of Brooklyn.

**COMMUNITY BOARD #2BK**

**APPEARANCES -**

For Applicant: Eric Palatnik.

**ACTION OF THE BOARD** - Application granted on condition.

**THE VOTE TO REOPEN HEARING-**

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo and Commissioner Miele.....4

Negative:.....0

Absent: Commissioner Chin.....1

**THE VOTE TO CLOSE HEARING-**

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo and Commissioner Miele.....4

Negative:.....0

Absent: Commissioner Chin.....1

**THE VOTE TO GRANT-**

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo and Commissioner Miele.....4

Negative:.....0

Absent: Commissioner Chin.....1

**THE RESOLUTION -**

WHEREAS, the decision of the Borough Commissioner, dated October 2, 2003, acting on Department of Buildings Application No. 301499974, reads, in part:

- "1) Proposed Building Height is contrary to ZR section 23-631(d) & (e) and therefore must be referred to the Board of Standards and Appeals
- 2) Proposed front yard is contrary to ZR 23-45 and therefore must be referred to the Board of Standards and Appeals.
- 3) Proposed rear yard is contrary to ZR Section 23-45 and therefore must be referred to the Board of Standards and Appeals.
- 4) Proposed distance from a window to a rear lot line is contrary to ZR Section 23-861 and therefore must be referred to the Board of Standards and Appeals"; and

WHEREAS, a public hearing was held on this application on November 18, 2003 after due notice by publication in the City Record; decisions were scheduled for December 9, 2003 and January 27, 2004 and were deferred; the decision was then laid over to February 10, 2004;

WHEREAS, Community Board No. 6 in Brooklyn recommended approval of the subject

application; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board consisting of Chair Meenakshi Srinivasan, Vice-Chair Satish Babbar, Commissioner James Chin, Commissioner Peter Caliendo and Commissioner Joel Miele; and

WHEREAS, this is an application under Z.R. §72-21, to permit the proposed construction of a four-story residential building (Use Group 2), located in an R5 zoning district, which does not comply with the zoning requirements for height, setback, front and rear yards, and distance from a window to a rear lot line, contrary to Z.R. §§23-631, 23-45, 25-23, and 23-861; and

WHEREAS, the Board notes that there are related variance applications under BSA Calendar Nos. 108-03-BZ and 109-03-BZ, for construction of buildings that will be part of the same overall three building low-income housing development, as well as a companion administrative appeal under BSA Calendar No. 330-03-A, which would allow for a waiver of a provisions in the Multiple Dwelling Law and New York City Building Code; and

WHEREAS, the applicant notes that lots 15, 22, 23 & 49 were, at the time of filing, under City ownership, but that the developer was in the process of purchasing the lots; and

WHEREAS, the applicant represents that the New York City Department of Housing Preservation and Development will submit an application for the disposition of the City-owned property pursuant to ULURP; and

WHEREAS, the subject site is 17,208 square feet in size, and is currently vacant and undeveloped; and

WHEREAS, the site possesses an irregular rear lot line; and

WHEREAS, the applicant proposes the construction of a four-story residential structure, containing 24,826 square feet of floor area and 21 dwelling units; accessory parking spaces will be provided onsite; and an outdoor play space of approximately 2000 square feet will also be provided; and

WHEREAS, the applicant states that the following are unique physical conditions, which create practical difficulties and unnecessary hardships in developing the site in conformity with underlying district regulations: it is primarily undeveloped and is located in close proximity to a Coast Flood Plain, which prevents the use of a full cellar and/or a partial basement and leads to the need for the increase in height, as a partial basement would have contained some residential units that must now be relocated to the upper floors; and

WHEREAS, the applicant represents that an additional basis of the uniqueness of the premises relates to its programmatic needs as a not-for-profit corporation founded for the express purposes of developing and managing housing for persons of low income, and generally assisting in the betterment of the community through promotion of safe and clean low

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income housing options; and

WHEREAS, the applicant represents that the requested variances will assist in the creation of viable, sustainable residential development for low income individuals, and that such development is needed given the demand for affordable housing in the vicinity; and

WHEREAS, the Board finds that the aforementioned unique conditions, and the irregular angle of the rear lot line, create practical difficulties and unnecessary hardships in developing the site in strict conformity with current zoning; and

WHEREAS, the applicant need not address Z.R. §72-21(b) since the applicant is a not-for-profit organization and the legalization will be in furtherance of its programmatic needs; and

WHEREAS, the applicant has submitted photo surveys depicting the surrounding neighborhood and demonstrating that there are many residential buildings near the subject site with equal or more bulk, including some with a height of 3 to 4 stories; and

WHEREAS, the applicant states that there are many vacant lots and abandoned buildings in the vicinity, and that the proposal, if granted, will have a beneficial effect on the surrounding community by bringing families to the community and rejuvenating the immediate area; and

WHEREAS, based on the above, the Board finds the subject application, if granted, will not alter the essential character of the surrounding neighborhood or impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

WHEREAS, the hardship herein was not created by the owner or a predecessor in title; and

WHEREAS, this proposal is the minimum necessary to afford the owner relief; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. §72-21; and

WHEREAS, the Board has determined that the proposed project is consistent with the City's Local Waterfront Revitalization Program policies; and

WHEREAS, the Board has conducted an environmental review of the proposed action and the Final Environmental Assessment Statement and has carefully considered all relevant areas of environmental concern; and

WHEREAS, the evidence demonstrates no foreseeable significant environmental impacts that would require the preparation of an Environmental Impact Statement.

Resolved, that the Board of Standards and Appeals issues a Negative Declaration with archaeological conditions as stated below under 6

NYCRR Part 617 and §6-07(b) of the Rules of Procedure for City Environmental Quality Review and makes each and every one of the required findings under Z.R. §72-21 and grants a variation in the application of the Zoning Resolution, limited to the objections cited, to permit the proposed construction of a four story residential building (Use Group 2), located in an R5 zoning district, which does not comply with the zoning requirements for height, setback, front and rear yards, and distance from a window to a rear lot line, contrary to Z.R. §§23-631, 23-45, 25-23, and 23-861; on condition that any and all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked ""Received November 26, 2003" - (6) sheets, "Received January 30, 2004" - (1) sheet and "Received February 6, 2004" - (2) sheets; and on further condition:

THAT the premises shall be maintained free of debris and graffiti;

THAT any graffiti located in the premises shall be removed within 48 hours;

THAT the premises shall comply with all applicable fire safety measures;

THAT the above conditions shall be noted in the Certificate of Occupancy;

THAT (1) A scope-of-work for archaeological field testing should be submitted to the Landmarks Preservation Commission's ("LPC") for review and approval; (2) After the scope-of-work is approved by LPC, archaeological field testing should be conducted (prior to obtaining DOB permits) on Block 576/Lots 23, 24, 25, 26, 27, 29 and 43 in accordance with the Guidelines for Archaeological Work in New York City; (3) Two copies of the Stage IA report, scope-of-work and the field testing report should be submitted to LPC's library and the Municipal Library; the Applicant shall also submit one copy of the aforementioned documents and LPC's approval of the field testing report to the BSA;

THAT substantial construction will be completed in accordance with Z.R. §72-23;

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;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; 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, February 10, 2004.

**A true copy of resolution adopted by the Board of Standards and Appeals, February 10, 2004.**  
**Printed in Bulletin No. 8, Vol. 89.**

**Copies Sent**  
**To Applicant**  
**Fire Com'r.**  
**Borough Com'r.**