

110-07-BZ

APPLICANT – Sheldon Lobel, P.C., for Crosby Landmark Corporation, owner.

SUBJECT – Application May 3, 2007– Special Permit under § 73-63 to allow the enlargement of a non-residential building. M1-5B district.

PREMISES AFFECTED – 53 Crosby Street, east side of Crosby Street between Spring Street and Broome Street, Block 482, Lot 7, Borough of Manhattan.

COMMUNITY BOARD #2M

APPEARANCES –

For Applicant: Jordan Most.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice-Chair Collins, Commissioner Ottley-Brown and Commissioner Hinkson.....4
Negative:.....0

THE RESOLUTION:

WHEREAS, the decision of the Manhattan Borough Commissioner, dated September 25, 2007, acting on Department of Buildings Application No. 104592282, reads in pertinent part:

“Proposed vertical enlargement is contrary to ZR Sections 43-12, 43-17 and 54-30;” and

WHEREAS, this is an application under ZR §§ 73-63 and 73-03 to permit the enlargement of an existing six-story non-residential building containing Use Group 17 Joint Living Work Quarters for Artists (“JLWQA”), within an M1-5B zoning district, which increases non-compliance with regard to floor area contrary to ZR § 43-12; and

WHEREAS, a public hearing was held on this application on October 23, 2007, after due notice by publication in *The City Record*, with continued hearing on November 20, 2007, and then to decision on December 4, 2007; and

WHEREAS, Community Board 2, Manhattan, recommends approval of this application; and

WHEREAS, counsel for a neighboring owner submitted written and oral testimony citing concern with the adverse effects that the proposed enlargement would have on the adjacent property’s access to light and air; and

WHEREAS, the subject site is located on the easterly side of Crosby Street, between Spring Street and Broome Street and have a lot area of 2,500 sq. ft.; and

WHEREAS, the site is occupied by a six-story building with a height of approximately 77’-9”, a floor area of 13,434 sq. ft., and an FAR of 5.34; and

WHEREAS, the building is occupied by six Use Group 17 JLWQA units; and

WHEREAS, the proposed enlargement to the sixth floor unit results in the enclosure of a portion of the existing roof, creating a building height of 90’-7” and an increase in the floor area by 410 sq. ft.; and

WHEREAS, the subject zoning district permits a maximum FAR of 5.0; the maximum floor area permitted is 12,583 sq. ft.; and

WHEREAS, the proposed enlargement will increase the floor area by approximately 2.96 percent, amounting to a total of 13,844 sq. ft. and an FAR of 5.50; and

WHEREAS, pursuant to ZR § 73-63, the Board may grant a request for alteration and enlargement of a non-residential building constructed prior to December 15, 1961, provided that such enlargement does not exceed ten percent above the maximum allowable floor area ratio for the subject zoning district, or 10,000 sq. ft. in floor area and does not create any new non-compliance; and

WHEREAS, the proposed enlargement of 410 sq. ft. is less than the maximum permitted 10,000 sq. ft.; and

WHEREAS, the final FAR of 5.50 proposed by the applicant does not exceed ten percent above the maximum allowable for the subject zoning district; and

WHEREAS, accordingly, the Board notes that the proposed final FAR of 5.50 is permitted under ZR § 73-63; and

WHEREAS, the proposed enlargement will be built within the as-of-right building envelope and will not create any new non-compliance or increase the amount of non non-compliance except as described above; and

WHEREAS, accordingly the Board has determined that the evidence in the record supports the findings to be made under ZR § 73-63; and

WHEREAS, pursuant to ZR § 73-03, the Board may not grant a request for alteration and enlargement of the site, if such enlargement would either: (1) alter the essential character of the surrounding neighborhood; (2) impair the use or development of adjacent properties; (3) be detrimental to the public welfare; or (4) interfere with any pending public improvement project; and

WHEREAS, based on the above, the Board finds that this action will neither: (1) alter the essential character of the surrounding neighborhood; (2) impair the use or development of adjacent properties; (3) be detrimental to the public welfare; nor (4) interfere with any pending public improvement project ;and

WHEREAS, as to the neighbor’s concerns about effects of the enlargement on his light and air, a response by the applicant states that the proposed addition would not significantly further diminish the amount of available light and air which are already impeded or restricted by a large bulkhead, a rooftop “pop-up,” and a fence; and

WHEREAS, the Board reviewed the submissions of the neighbor and the applicant and reiterates that the proposed building is within the as-of-right building envelope and notes, as above, that all relevant findings of the special permit have been met; and

WHEREAS, accordingly, the Board finds that, under the conditions and safeguards imposed, any

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hazard or disadvantage to the community at large due to the proposed special permit use is outweighed by the advantages to be derived by the community; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the requisite findings pursuant to ZR § 73-03; and

Therefore it is Resolved that the Board of Standards and Appeals issues a Type II Declaration under 6 NYCRR Part 617.5 and 617.13, §§ 5-02(a), 5-02(b)(2), and 6-15 of the Rules of Procedure for City Environmental Quality Review, and makes each and every one of the required findings under ZR §§ 73-63 and 73-03 and grants a special permit pursuant, limited to the objections cited, to permit the enlargement of an existing six-story non-residential building containing Use Group 17 Joint Living Work Quarters for Artists within an M1-5B zoning district, which increases non-compliance with regard to floor area contrary to ZR § 43-12; *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 September 27, 2007"—nineteen (19) sheets; and *on further condition*: THAT the following shall be the bulk parameters of the proposed enlargement: a floor area increase of 410 sq. ft., a total floor area of 13,844 sq. ft., and an FAR of 5.50;

THAT the above condition shall appear on the certificate of occupancy;

THAT DOB shall review the existing and the proposed floor area calculations, prior to permitting;

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 substantial construction shall be completed within four years of the date of this resolution; 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)/configuration(s) not related to the relief granted."

Adopted by the Board of Standards and Appeals, December 4, 2007.

**A true copy of resolution adopted by the Board of Standards and Appeals, December 4, 2007.
Printed in Bulletin No. 47, Vol. 92.**

Copies Sent

To Applicant

Fire Com'r.

Borough Com'r.