

**151-00-BZ**

**CEQR#00-BSA-150X**

**APPLICANT** - Stroock & Stroock & Lavan LLP, By: Irving E. Minkin, for SOBRO Local Development Corp., owner.

**SUBJECT** - Application June 1, 2000 - under Z.R. §72-21, to permit in an M1-1 zoning district, the proposed construction of a seven story mixed use building, (Use Groups 2 and 6) exceeding the permissible F.A. R., building height, provide less than the required off-street parking spaces, and will lack one required loading berth, contrary to Z.R. §§42-00,43-12, 43-43, 44-21, and 44-52.

**PREMISES AFFECTED** - 480-506 East 164th Street a.k.a. 976-984 Washington Avenue, between Washington and Third Avenues, Block 2368, Lots 15, 17, 19, 21 and 23, Borough of The Bronx.

**COMMUNITY BOARD #3BX**

**APPEARANCES** -

For Administration: Battalion Chief Robert J. Stec and John Scrofani, Fire Department.

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

**THE VOTE TO GRANT** -

Affirmative: Chairman Chin, Vice-Chair Bonfilio, Commissioner Korbey and Commissioner Caliendo....4

Negative: .....0

**THE RESOLUTION** -

WHEREAS, the decision of the Borough Commissioner, dated May 31, 2000 acting on Application Number 200624093 reads, in pertinent part:

1. "Proposed residence in manufacturing district is not permitted as-of-right and is contrary to section 42-00 of the Zoning Resolution
2. Referred to BSA for applicable bulk and parking requirements for residences
3. Number of parking spaces provided for commercial uses is contrary to section 42-21 of the Zoning Resolution
4. Loading berth required by section 44-52 of the Zoning Resolution is not provided"; and

WHEREAS, a public hearing was held on this application on October 3, 2000 after due notice by publication in *The City Record*, laid over to November 14, 2000 and then to December 5, 2000 for decision; and

WHEREAS, the site and surrounding area had a site and neighborhood examination by a committee of the Board consisting of Chairman James Chin, Vice-Chair Paul Bonfilio, R.A., Commissioner Mitchell Korbey and Commissioner Peter Caliendo; and

WHEREAS, this is an application under Z.R. §72-21, to permit in an M1-1 zoning district, the proposed construction of a seven story mixed use building, (Use

Groups 2 and 6) exceeding the permissible F.A. R., building height, provide less than the required off-street parking spaces, and will lack one required loading berth, contrary to Z.R. §§42-00,43-12, 43-43, 44-21, and 44-52; and

WHEREAS, while the site is located within an M1-1 zoning district, it is surrounded by various residential districts; and

WHEREAS, less than a block away from the site lies an R8 district to the south, an R7 is located to the southwest and an R6 is to the east on the same block; and

WHEREAS, the applicant represents that for the greater part of the 20th Century, the preponderance of the premises and the easterly side of Washington Avenue on Block 2368 was occupied by multiple dwellings having a bulk comparable to that being requested in this application; and

WHEREAS, the record indicates that the infrastructure accommodating the density and type of development being requested in the present application is already in place; and

WHEREAS, as a result of all the prior demolitions of the above mentioned residences, the construction of a new building will incur extraordinary expense in excavating the site and will require either large footings or piling; and

WHEREAS, the applicant represents that engineers have advised that a high water table normally exists at the premises; and

WHEREAS, the subject site is burdened with a steep slope of approximately 6% along East 164th Street; and

WHEREAS, the applicant represents that the premises has remained vacant for almost a decade because a complying development for a conforming use is not viable; and

WHEREAS, therefore, these unique conditions demonstrate that the development of this site with a complying building for exclusively conforming use creates an unnecessary hardship; and

WHEREAS, the applicant represents that the above referenced conditions leave no reasonable possibility of obtaining a reasonable return through conforming development; and

WHEREAS, evidence in the record, including a feasibility study, demonstrates that developing the site with a conforming use would not yield a reasonable return; and

WHEREAS, the immediate area surrounding the subject premises is characterized by a mixture of manufacturing and residential uses; and

WHEREAS, the record indicates that the proposed bulk is consistent with the R8 zoning district, which is less than a block away; and

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WHEREAS, evidence contained in the Environmental Assessment Statement suggests that the proposed parking spaces will be sufficient to accommodate the needs of the development; and

WHEREAS, the applicant represents that deliveries to the subject retail stores do not necessitate a loading berth, similar to the retail stores on Third Avenue,

WHEREAS, therefore, the Board finds that the proposed application will not alter the essential character of the surrounding neighborhood, impair the use or development of adjacent properties nor be detrimental to the public welfare; and

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

WHEREAS, the Board finds that the variance is the minimum variance necessary to afford relief; and

WHEREAS, the applicant has agreed to comply with the Fire Department's conditions; 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 conducted an environmental review of the proposed action 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, 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 in an M1-1 zoning district, the proposed construction of a seven story mixed use building, (Use Groups 2 and 6) exceeding the permissible F.A.R., building height, provide less than the required off-street parking spaces, and will lack one required loading berth, contrary to Z.R. §§42-00,43-12, 43-43, 44-21, and 44-52 on condition that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received December 1, 2000"-(12) sheets; and on further condition;

THAT the entire building will have an automatic wet sprinkler system connected to a Fire Department-approved central station;

THAT a Vertical Clearance of 14' in the driveway from East 164th Street and a turning of 49' be provided;

THAT one continuous unidirectional access driveway with one 12' wide curb cut for vehicles to enter on East 164th Street and one 11' curb cut for vehicles to exit on Washington Avenue. This driveway will provide access to the rear of the building and will be marked and assigned as a fire lane with "NO STANDING ANY TIME" restrictions;

THAT the development, as approved, is subject to verification by the Department of Buildings for compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under the jurisdiction of the Department; and

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

Adopted by the Board of Standards and Appeals, December 5, 2000.

A true copy of resolution adopted by the Board of Standards and Appeals, December 5, 2000.  
Printed in Bulletin Nos. 48-49, Vol. 85.

Copies Sent

To Applicant  
Fire Com'r.  
Borough Com'r.

