

153-03-A

APPLICANT - Francis R. Angelino, Esq, c/o DeCampo, Diamond & Ash, for Hudson Street Properties, LLC, c/o AFC Company, owner.

SUBJECT - Application May 15, 2003 - Pursuant to Section 666 of the City Charter for an interpretation of Z.R. §23-145, regarding lot coverage regulations as it applies to said premises.

PREMISES AFFECTED - 114/16 Hudson Street, between North Moore and Franklin Streets, Block 189, Lots 18 and 19, Borough of Manhattan.

COMMUNITY BOARD #1M

APPEARANCES -

For Applicant: Francis R. Angelino and Stacy Harvey.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

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

Negative:0

THE RESOLUTION -

WHEREAS, this appeal seeks an interpretation of ZR §23-145, regarding lot coverage regulations, as they apply to the subject premises; and

WHEREAS, the final determination of the Borough Commissioner, dated May 9, 2003 states that the

“Proposed combined lot coverage does not comply with ZR §23-145 (max. lot coverage). Max lot coverage permitted under R8A is 70%. Under this application the proposed lot coverage is 73.3%.”; and

WHEREAS, a public hearing was held on this application on June 24, 2003, and laid over to August 5, 2003 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 Chairman Satish Babbar, Commissioner Joel Miele, and Commissioner Peter Caliendo; and

WHEREAS, the subject premises are located in a C6-2A (R8A equivalent) zoning district within the Tribeca Mixed Use Special Purpose District Area A-1, and in the Tribeca West Historic District; and

WHEREAS, this application pertains to two interior lots, 116 Hudson Street which is currently improved with a pre-1961, six-story mixed-use building, and 114 Hudson Street which is currently vacant; and

WHEREAS, the applicant seeks to merge the two zoning lots and enlarge the existing building at 116 Hudson Street with a seven-story extension; and

WHEREAS, the appellant contends that the lot coverage regulations C6-2A (R8A equivalent) should only apply to the enlargement on 114 Hudson Street irrespective of the existent building 116 Hudson Street’s compliance or non-compliance; and

WHEREAS, ZR §23-145 outlines the maximum lot coverage for buildings, such as the subject building,

developed or enlarged pursuant to the Quality Housing Program, and sets the maximum lot coverage for an interior lot located within an R8A district at 70%; and

WHEREAS, the existing building at 116 Hudson Street has a legally non-complying lot coverage of 88.3% and the proposed enlargement at 114 Hudson Street has a lot coverage of 60%; and

WHEREAS, the post-merger building would have a total lot coverage of 73%; and

WHEREAS, the crux of this appeal is based upon whether the 70% maximum lot coverage should be applied to the entire post-merger building, or just the enlargement at 114 Hudson Street; and

WHEREAS, the applicant has provided the Board with a copy of DOB Technical Policy and Procedure Notice #1/97 (TTPN #1/97), dated April 28, 1997, which pertains to “Enlargements of Converted Buildings” and states:

“ENLARGEMENT PURSUANT TO §111-02 AND §111-104 Z.R.

Converted buildings or buildings designed for non-residential use and erected prior to December 15, 1961 proposed to be converted to loft dwellings and joint living/work quarters for artists in areas A1 through A4 may be enlarged to their maximum permitted floor area, provided the new enlarged portion complies with the applicable commercial district regulations for a residential building without regard to the existing building’s non-compliance in lot coverage, open space, yards, courts or legal windows.”; and

WHEREAS, the applicant argues that the building located at 116 Hudson Street complies with the zoning resolution and the provisions of the Tribeca Mixed Use district, since the Department of Buildings approved the residential conversion in 1997; and

WHEREAS, the applicant asserts that even if the existing building at 116 Hudson Street was not in compliance with lot coverage requirements, TPPN #1/97 provides for the review the proposed enlargement’s compliance with district regulations to take place irrespective of the existing buildings non-compliance; and

WHEREAS, the applicant argues that the Department of Building’s interpretation is not consistent with the intent of the Tribeca Mixed Use District, which is to permit loft dwellings with fewer yards and legal windows to exist and to allow the buildings that contain them to be enlarged; and

WHEREAS, the respondent argues that TPPN #1/97 must be read as an amendment to a Department of Buildings Memorandum dated October 30, 1981 and

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in conjunction with the ZR, therefore, enlargements on a merged zoning lot and a lot coverage analysis on a pre-merger lot are not permitted; and

WHEREAS, the respondent contends that lot coverage analysis must be performed with reference to the newly merged zoning lot and not the original two separate zoning lots, because under the ZR definition of "building", a building cannot cross two lot lines, therefore the lot coverage provisions must apply to the entire development and not just the proposed enlargement; and

WHEREAS, the applicant also notes that it would be possible to construct a building with 70% lot coverage, the same as the proposed enlargement, at 114 Hudson Street and connect it to the existing building at 116 Hudson Street to obtain the applicant's proposed building configuration; and

WHEREAS, the respondent also contends that although the applicant would have the ability to construct a new building on 114 Hudson Street with 70% lot coverage and to connect that building to the building located at 116 Hudson Street sometime in the future, the proposed construction does not provide for a fire wall and a means of egress and access for the new building; and

WHEREAS, based upon its review of the record and its reading of the Zoning Resolution and the TPPN #1/97, the Board finds that the lot coverage provisions of Section 23-145 of the zoning resolution are applicable to the proposed enlargement and not the entire development; and

WHEREAS, the Board notes that the Landmarks Preservation Committee has approved the proposed development; and

WHEREAS, therefore, the Board finds that the appellant has submitted adequate evidence to warrant granting this appeal.

Resolved, the Borough Commissioner's determination dated, May 9, 2003, rejecting the proposed enlargement as contrary to the lot coverage provisions of Z.R. §23-145, is reversed and this appeal is granted.

Adopted by the Board of Standards and Appeals, August 5, 2003.

**A true copy of resolution adopted by the Board of Standards and Appeals, August 5, 2003.
Printed in Bulletin No. 31, Vol. 88.**

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