

***CORRECTION**

This resolution adopted on January 8, 2013, under Calendar No. 156-12-BZ and printed in Volume 98, Bulletin Nos. 1-2, is hereby corrected to read as follows:

156-12-BZ

CEQR #12-BSA-137K

APPLICANT – Sheldon Lobel, for Prospect Equities Operating, LLC, owner.

SUBJECT – Application May 17, 2012 – Variance (§72-21) to permit construction of a mixed-use residential building with ground floor commercial use, contrary to minimum inner court dimensions (§23-851).

C1-4/R7A zoning district.

PREMISES AFFECTED – 816 Washington Avenue, southwest corner of Washington Avenue and St. John’s Place, Block 1176, Lot 90, Borough of Brooklyn.

COMMUNITY BOARD #8BK

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez5
Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated April 17, 2012, acting on Department of Buildings Application No. 320373742, reads in pertinent part:

Proposed inner court for the residential portion of proposed ‘mixed building’ does not comply with minimum required dimensions; contrary to ZR 23-851; and

WHEREAS, this is an application under ZR § 72-21, to permit, on a site within an C1-4 (R7A) zoning district, a five-story mixed-use commercial/residential building with UG 6 on the ground floor and eight affordable housing units, which does not comply with the requirements for inner courts, contrary to ZR § 23-851; and

WHEREAS, a public hearing was held on this application on November 27, 2012, after due notice by publication in the *City Record*, and then to decision on January 8, 2013; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by Commissioner Montanez; and

WHEREAS, Community Board 8, Brooklyn, recommends approval of this application; and

WHEREAS, Councilmember Letitia James submitted a letter in support of the application; and

WHEREAS, the subject premises is a corner lot bounded by Washington Avenue to the east and St. John’s Place to the north, within an C1-4 (R7A) zoning district; and

WHEREAS, the site is irregular in shape with

approximately 22’-6” of frontage on Washington Avenue and 87’-10” of frontage on St. John’s Place, with a total lot area of 3,972 sq. ft.; and

WHEREAS, the site is currently vacant, as a fire in June 2011 destroyed the mixed-use four-story building previously on the site; and

WHEREAS, the applicant proposes to construct a five-story and cellar mixed-use building, with Use Group 6 commercial use on the first floor and Use Group 2 affordable housing units on the second through fifth floors; and

WHEREAS, the proposed building will measure approximately 15,700 sq. ft. in floor area, with an FAR of 3.95 (the zoning district permits 15,888 sq. ft. and a maximum allowable FAR of 4.0), and will contain a total of eight residential units; and

WHEREAS, however, ZR § 23-851 requires a minimum inner court dimension of 30 feet and a minimum area of 1,200 sq. ft.; and

WHEREAS, the applicant proposes an inner court with dimensions of 23’-10” by 19’-5½” and 730 sq. ft. of area, a reduction of 7’-0” and approximately 10’-0” in dimensions, and 472 sq. ft. of area; and

WHEREAS, the applicant asserts that the irregular shape of the lot and the history of the site contribute to the unique physical condition, which creates an unnecessary hardship in developing the site in compliance with applicable regulations; and

WHEREAS, the applicant states that the site has an irregular trapezoid shape, with a depth ranging from 22’-6” along Washington Avenue to 63’-3” at the rear of the site; and

WHEREAS, the applicant’s land use map reflects that due to the angle at which Washington Avenue intersects St. John’s Place and other parallel streets within the 400-ft. radius, there are approximately seven sites within the area that are of similar shape and size, but only the subject site is vacant; and

WHEREAS, as to the history of the site, in June 2008, the applicant purchased the mixed-use four-story building on the site in foreclosure as part of the Department of Housing Preservation and Development’s (HPD) Third Party Transfer Program; and

WHEREAS, the applicant states that the program requires developers to temporarily relocate existing tenants while the building is being rehabilitated and reinstall the tenants in units of the same size once the restoration of the building is complete; and

WHEREAS, further, the applicant states that the owner entered into a regulatory agreement with the City of New York which requires compliance with certain restrictions for a 30-year period, including mandated residential rent levels and minimum household sizes; and

WHEREAS, the applicant submitted a letter from HPD reflecting that it supports the proposal and has given the applicant a low-interest rate loan through the Third Party Transfer Program, which dictates unit sizes and number of dwelling units for each proposed project; and

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WHEREAS, the applicant states that the former building was occupied by three four-bedroom units with floor areas of 1,223 sq. ft. each and three three-bedroom units with floor area of 1,007 sq. ft. each; and

WHEREAS, the proposed building will have four four-bedroom units with floor area of 1,286 sq. ft. each and four three-bedroom units with floor area of 1,040 sq. ft. each; and

WHEREAS, the applicant's analysis reflects that the complying building can accommodate units with 998 sq. ft. and 1,185 sq. ft., which can accommodate two and three bedrooms, respectively, rather than three and four bedrooms in the former building; and

WHEREAS, accordingly, the applicant states that a fully complying building would only accommodate smaller units with fewer bedrooms or fewer units and would not satisfy the requirement to replace the former units; and

WHEREAS, the applicant notes that a complying building may be able to accommodate more units, but they would not be able to replace the existing ones without creating duplexes which are impractical and inefficient for such a small building due to the introduction of individual circulation space; and

WHEREAS, the applicant states that to reflect the conditions of the prior building on the site, to be re-occupied by former tenants, the proposal includes four three-bedroom units and four four-bedroom units, similar in size to the prior units; and

WHEREAS, the applicant represents that due to the irregular shape of the lot and the court requirements, no complying building can be accommodated that would meet both inner court and HPD requirements regarding restoration of former tenants to dwelling units with identical room counts; and

WHEREAS, further, the applicant provided an analysis of a similar sized lot that is regular and rectangular in shape that showed that a conforming building accommodates and satisfies all HPD requirements regarding restoration of former tenants to dwelling units with former sizes and room counts; and

WHEREAS, the applicant states that the analysis confirms that the irregular shape of the site, which is a unique condition, creates a hardship for a conforming proposal to comply with zoning regulations and meet the programmatic needs established by HPD; and

WHEREAS, the applicant represents that the proposed inner court dimensions are the minimum needed to create units that meet HPD requirements; and

WHEREAS, the Board notes that the floor plate is dictated by the prior conditions and irregular lot and, thus there is little flexibility in satisfying the required quantity and size of units, but that because additional floor area was available, it allowed for another floor in the same footprint as the required floors; and

WHEREAS, further, the Board notes that it is not

feasible to create duplex units to replace existing single floor units in such a small building; and

WHEREAS, the Board agrees that the unique shape, and history of the building on the site, with related HPD requirements, creates practical difficulties and unnecessary hardship in developing the site in compliance with the applicable zoning regulations; and

WHEREAS, the applicant submitted a feasibility study analyzing (1) an as-of-right scenario with mixed-use and a complying inner court; (2) an as-of-right scenario with mixed-use and a side yard with a width of eight feet; (3) an as-of-right scenario with an outer court; and (4) the proposed scenario; and

WHEREAS, the study concluded that the only scenario which would result in a reasonable return is the proposed; and

WHEREAS, based upon its review of the applicant's submissions, the Board has determined that because of the subject lot's unique physical conditions and history, there is no reasonable possibility that development in strict compliance with applicable zoning requirements will provide a reasonable return; and

WHEREAS, the applicant represents that the proposed variance will not negatively affect the character of the neighborhood, nor impact adjacent uses; and

WHEREAS, the applicant states that the court is not required on the ground floor, which will be occupied by commercial use, thus, the waiver only applies to floors two through five; and

WHEREAS, the applicant states that on both the Washington Avenue and St. John's Place sides of the building, a fully complying court would result in the building abutting the adjacent buildings for a greater depth than they do in the proposed scenario; and

WHEREAS, the applicant notes that the new building will replace the former building, which was constructed in approximately 1920 and did not provide a complying inner court, or required egress or fire safety measures; and

WHEREAS, accordingly, the applicant asserts that the proposed building will comply with all egress and fire safety requirements and will therefore provide increased safety to residents of the building as well as adjacent buildings; and

WHEREAS, the applicant represents that the impacts of the proposed waiver of inner court regulations on adjacent properties will be negligible when compared to available as-of-right scenarios; and

WHEREAS, based upon the above, the Board finds that this action will not alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

WHEREAS, the applicant represents that the hardship was not created by the owner or a predecessor in title, but that the irregular shape of the lot is a historic condition; and

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WHEREAS, based on the above, the Board agrees that the hardship herein was not created by the owner or a predecessor in title; and

WHEREAS, the applicant states that the proposal complies with all bulk regulations except inner court dimensions and that it is the minimum variance needed to allow for a reasonable and productive use of the site; and

WHEREAS, thus, the Board has determined that the evidence in the record supports the findings required to be made under ZR § 72-21; and

WHEREAS, the project is classified as an Unlisted action pursuant to Section 617 of 6NYCRR; and

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement (EAS) CEQR No. 12BSA137K, dated May 17, 2012; and

WHEREAS, the EAS documents that the project as proposed would not have significant adverse impacts on Land Use, Zoning, and Public Policy; Socioeconomic Conditions; Community Facilities and Services; Open Space; Shadows; Historic Resources; Urban Design and Visual Resources; Neighborhood Character; Natural Resources; Waterfront Revitalization Program; Infrastructure; Hazardous Materials; Solid Waste and Sanitation Services; Energy; Traffic and Parking; Transit and Pedestrians; Air Quality; Noise; and Public Health; and

WHEREAS, no other significant effects upon the environment that would require an Environmental Impact Statement are foreseeable; and

WHEREAS, the Board has determined that the proposed action will not have a significant adverse impact on the environment.

Therefore it is Resolved, that the Board of Standards and Appeals issues a Negative Declaration, with conditions as stipulated below, prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR § 72-21, to permit, on a site within an C1-4 (R7A) zoning district, a five-story mixed-use commercial/residential building with UG 6 on the ground floor and eight affordable housing units, which does not comply with the requirements for inner courts, contrary to ZR § 23-851; *on condition* that any and all work will substantially conform to drawings as they apply to the

objections above noted, filed with this application marked "Received January 3, 2013"— eleven (11) sheets; and *on further condition*:

THAT the parameters of the building will be: five stories, a total height of 52'-1/2" without bulkhead, a total floor area of 15,700 sq. ft. (3.95 FAR), an inner court with the minimum dimensions of 23'-10" by 19'-5½", and a lot coverage of 79 percent, as illustrated on the Board-approved plans;

THAT the internal floor layouts on each floor of the proposed building will be as reviewed and approved by DOB;

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;

THAT substantial construction will proceed in accordance with ZR § 72-23; 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, January 8, 2013.

***The resolution has been amended. Corrected in Bulletin No. 6, Vol. 98, dated February 13, 2013.**

A true copy of resolution adopted by the Board of Standards and Appeals, January 8, 2013.

Printed in Bulletin Nos. 1-2, Vol. 98.

Copies Sent

To Applicant

Fire Com'r.

Borough Com'r.