

**162-01-BZ**

**CEQR #01-BSA-135M**

APPLICANT - Jay Segal (Greenberg Traurig), for Greenwich Renwich, LLC, Contract Vendee.

OWNER OF PREMISES: Lava, LLC and Henry Murad.

SUBJECT - Application April 26, 2001 - under Z.R. §72-21, to permit in an M1-6 district the proposed construction of a new 14 story and cellar residential building, with a retail use on a portion of the first floor (Use Groups 2 and 6), which residential uses are not permitted in M1-6 districts.

PREMISES AFFECTED - 499 Greenwich Street, commences 40'-9" from the southeast intersection of Greenwich and Spring Streets, Block 594, Lots 29 and 37, Borough of Manhattan.

**COMMUNITY BOARD #2M**

APPEARANCES - None.

THE VOTE TO GRANT -

Affirmative: Chairman Chin, Commissioner Korbey and Commissioner Caliendo .....3

Negative: .....0

Abstain: Vice-Chair Babbar.....1

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

THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated April 11, 2001 acting on Applic. No. 102493204 reads:

“Residential use not permitted in M1-6 Zoning District, requires variance from BSA. (As per 41-11 of the NYC Zoning Resolution).”; and

1. M1-6 Zoning District does not provide bulk regulations for residential use must be provided by BSA.

WHEREAS, a public hearing was held on this application on July 17, 2001 after due notice by publication in *The City Record* and laid over to September 11, October 16, October 30 and December 4, 2001 and then to December 18, 2001 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, Commissioner Mitchell Korbey and Commissioner Peter Caliendo; and

WHEREAS, this is an application under Z.R. §72-21 to permit in an M1-6 district the proposed construction of a new 14 story and cellar residential building, with a retail use on a portion of the first floor (Use Groups 2 and 6); and

WHEREAS, which residential use does not conform with the district use regulations in that residential uses are not permitted in M1-6 districts and the district's regulations make no provision for bulk or density of residential uses; and

WHEREAS, the applicant represents that the subject zoning lot is vacant, except for a small, unoccupied, one-story building in the central portion of the zoning lot; and

WHEREAS, the subject zoning lot will consist of two tax lots (Lot 29 and Lot 37), and is irregularly shaped with 137 feet of frontage on Greenwich Street and 109 feet of frontage on Renwick Street, a configuration which results in the zoning lot having two narrow interior lots of different depths and one through lot; and

WHEREAS, Lot 37 is irregular in shape, having frontage of approximately 109' on Renwick Street and only approximately 45' on Greenwich Street; and

WHEREAS, Lot 29 is entirely vacant and is only 6,900 SF, which is smaller than most of the other vacant lots in the area; and

WHEREAS, Lot 29 is only 75' deep, a depth which is less than any other lot fronting on the subject zoning lot's block, except for the improved lot on the corner of Spring Street; and

WHEREAS, there is evidence that the subject zoning lot contains some petroleum contaminants that will have to be removed in order to construct a cellar for a conforming commercial building; and

WHEREAS, there is evidence that the subject zoning lot contains a subsurface boulder and cobble layer that is not generally prevalent in the neighborhood; and

WHEREAS, the record collectively demonstrates that construction of a conforming commercial building would incur significant special costs associated with the unique characteristics of the subject zoning lot; and

WHEREAS, the special costs include costs resulting from the irregular shape of the subject zoning lot, which costs include the construction of more façade area, transfer girders and mechanical, electrical, plumbing and fire protection materials than would be required for a conforming commercial building if the subject zoning lot were regularly shaped; and

WHEREAS, the special costs include a premium for removing soil with petroleum contaminants; and

WHEREAS, the special costs include additional foundation costs resulting from the subsurface boulder and cobble layer; and

WHEREAS, therefore, these unique conditions demonstrate that the development of this site with a 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

**162-01-BZ**  
**CEQR #01-BSA-135M**

return; and

WHEREAS, in response to the concerns of the community the proposed residential building was reduced; and

WHEREAS, the block in which the proposed residential building is located contains both existing residential units and new residential units now in construction, so that when such construction is complete, the entire Greenwich Street blockfront of the proposed residential building will consist of buildings containing residential units, except for a one-story building on the corner of Spring Street; and

WHEREAS, the buildings to the north and south of the proposed residential building on the Renwick street frontage also contain residential units; and

WHEREAS, the blocks to the immediate east and west of the block of the proposed residential building contain existing residential units directly across Greenwich and Renwick Streets from the proposed residential building, and other locations on the two blocks also contain residential units; and

WHEREAS, a letter from the Department of City Planning dated October 11, 2001, stated that residential use of the subject property might be appropriate, although such letter took issue with the proposed density of the project; and

WHEREAS, the floor area of the proposed residential building is no greater than the floor area currently allowed in the district for manufacturing or commercial buildings; and

WHEREAS, a conforming manufacturing or commercial building with the same floor area as the proposed residential building would have a significant impact on the character of the neighborhood; and

WHEREAS, the rental use of the proposed residential building would allow people to reside in the area who could not afford to purchase large condominium units and thus allow for some diversity in the economic circumstances of the occupants of the building; and

WHEREAS, therefore, the Board finds that the proposed application, as modified, 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 financial hardship was not self-created because there is evidence that the owner of the subject property did not purchase the property for the purpose of bringing a variance seeking residential use on the subject property, but instead

purchased the subject property for development along with other property as a telecom hotel, but that the anticipated tenant for such use decided to locate elsewhere; and

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

WHEREAS at the request of the Board the application has been modified several times to increase the number of multi-bedroom units and thereby reduce the total number of apartments in order to minimize the total number of people that would be residing therein; and

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

WHEREAS, 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.

*Therefore, it is Resolved* that the Board of Standards and Appeals issues a Conditional Negative Declaration duly published on November 7, 2001, 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 to permit in an M1-6 district the proposed construction of a new 14 story and cellar residential building, with a retail use on a portion of the first floor (Use Groups 2 and 6), which residential uses are not permitted in M1-6 districts, *on condition* that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "August 20, 2001"- (3) sheets and November 15, 2001"- (3) sheets; and *on further condition*;

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

Adopted by the Board of Standards and Appeals, December 18, 2001.

**A true copy of resolution adopted by the Board of Standards and Appeals, December 18, 2001.**  
**Printed in Bulletin Nos. 51-52, Vol. 86.**

**Copies Sent**

**To Applicant**

**Fire Com'r.**

**Borough Com'r.**