

175-97-BZ

APPLICANT - Francis R. Angelino, Esq., for H S Acquisition, LLC, owner.

SUBJECT - Application March 19, 2002 - reopening for an extension of time to complete construction which expired April 21, 2002.

PREMISES AFFECTED - 55 West Houston Street, a/k/a 158-160 Wooster Street, 200' along south side of W. Houston, Wooster and Green Streets, Block 514, Lot 14, Borough of Manhattan.

COMMUNITY BOARD #2M

APPEARANCES -

For Applicant: Howard Hornstein and Peter Geis.

For Opposition: Doris Diether, Community Board #2M and Robert Riccio.

ACTION OF THE BOARD - Application reopened and resolution amended.

THE VOTE TO GRANT -

Affirmative: Chairman Chin, Vice-Chair Babbar, Commissioner Korbey, Commissioner Caliendo, and Commissioner Miele.....5

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated August 19 2002 acting on Application No. 101884445 reads:

WHEREAS, a public hearing was held on this application on October 1, 2002, after due notice by publication in *The City Record*, and laid over to October 29, 2002, and then to November 12, 2002 for decision; and

WHEREAS, On April 21, 1998, the Board permitted, in an M1-5A zoning district, the erection of an eight-story, 43-unit, multiple- dwelling with retail uses on the ground floor; and

WHEREAS, the Board notes that this case was subject to litigation at every level of the state court system, and on November 28, 2000, the New York State Court of Appeals upheld the Board's grant; and.

WHEREAS, during the public hearings held in 1997 and 1998, the Board heard the subject application simultaneously with Calendar Number 174-97-BZ, but the sites are legally distinct, are located on different blocks, are architecturally distinct buildings and carry different calendar numbers; and

WHEREAS, during the 1997 and 1998 hearings the aforementioned property were under common ownership and were heard simultaneously as the owner desired to develop them at the same time; and

WHEREAS, however, the Board notes that each application presented separate evidence illustrating that each parcel on its own met the variance criteria under Z.R. §72-21; and

WHEREAS, specifically, the Board determined

that each property presented its own physical hardships and provided a separate financial analysis

demonstrating that each property would suffer economic hardship; and

WHEREAS, the Board notes that the Landmarks Preservation Commission required that the buildings be designed as separate buildings; and

WHEREAS, therefore, by letter dated February 1, 2001, a prior condition requiring that Certificates of Occupancy be simultaneously obtained for Calendar #174-97-BZ and the subject application was eliminated; and

WHEREAS, in response to opposition concerns, the applicant demonstrated that a condition requiring that Certificates of Occupancy be simultaneously obtained for Calendar #174-97-BZ and the subject application is not practicable because he does not own the other property and the condition is contrary to customary land-use practice; and

WHEREAS, the Board notes that the elimination of the condition that Certificates of Occupancy be simultaneously obtain for the instant application and Calendar # 174-97-BZ was addressed during the instant proceedings, and through this resolution the Board reaffirms the determination made in the letter dated February 1, 2001; and

WHEREAS, the Board recalls that during the 1997 and 1998, hearings the community desired a development of lesser density; and

WHEREAS, the instant application seeks to reduce the number of dwelling units previously approved from 43 with an open recreation area on the lower roof for building residents to 15 dwelling units; and

WHEREAS, this amendment also seeks to create building recreation space on the main building roof and to create two private terraces on the 7th floor/roof; and

WHEREAS, the applicant notes that by reducing the number of units the size of the units will be significantly increased, as desired by the community; and

WHEREAS, the applicant represents that the proposed recreation space will require bringing the elevator up an additional story; and

WHEREAS, the applicant represents and the Board agrees, that the proposed amendment falls within the envelope previously approved by the Board, reduces the number of dwelling units thereby lessening the residential density; and

WHEREAS, the record indicates that as part of the Department of Environmental Conservation process, Mobil/Exxon, the party responsible for cleaning the site, must perform excavations at the

site; and

WHEREAS, the Board notes that excavations require foundation/excavation permits from the Department of Buildings; and

WHEREAS, the applicant has provided assurances that the only construction will be that which is necessary to complete the DEC protocol and ensure site safety.

Resolved, that the Board of Standards and Appeals pursuant to Zoning Resolution § 72-01 *reopens and amends* the resolution, adopted on April 21, 1998, so that as amended this portion of the resolution shall read:

"to permit the reduction in the number of dwelling units from 43 to 15; to create building recreation space on the main building roof and to create two private terraces on the 7th floor/roof, and to permit elevator service up an addition story; on condition

THAT no construction shall commence prior to a Department of Buildings permit being issued, other than that which is needed to complete Department of Environmental Conservation Protocol;

THAT the premises shall be maintained in substantial compliance with the proposed drawings submitted with the application marked "Received August 21, 2002"-(5) sheets, and "October 8, 2002"-(3) sheets; and that other than as herein amended the resolution above cited shall be complied with in all respects; *and on further condition*

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 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) and/or configuration(s) not related to the relief granted."

Adopted by the Board of Standards and Appeals, November 12, 2002.