

181-06-BZ

CEQR #07-BSA-010M

APPLICANT – Greenberg Trarurig, LLP, by Jay Segal/Deirdre Carson, for 471 Washington Street Partners, owners.

SUBJECT – Application August 21, 2006 – Zoning variance pursuant to (§72-21) to allow a nine (9) story residential building containing seven (7) dwelling units and ground floor retail use in an M1-5 district (Area B-2 of the Special Tribeca Mixed Use District). The proposal is contrary to use regulations (§42-10 and §111-104(d)).

PREMISES AFFECTED – 471 Washington Street (a/k/a 510-520 Canal Street), Block 595, Lot 33, Borough of Manhattan.

COMMUNITY BOARD #1M

APPEARANCES –

For Applicant: Margo Flug.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Ottley-Brown and Commissioner Hinkson.....4
Negative:.....0

THE RESOLUTION:

WHEREAS, the decision of the Manhattan Borough Commissioner, dated November 13, 2006, acting on Department of Buildings Application No. 104439546, reads in pertinent part:

“Proposed residential dwelling units are not permitted as-of-right in M1-5 district within area B-2 of the Special Tribeca Mixed District and it is contrary to ZR 42-10 and ZR 111-104(d)”;
and¹

WHEREAS, this is an application under ZR § 72-21, to permit, on a site within an M1-5 zoning district, within Area B2 of the Special Tribeca Mixed Use District, a nine-story residential building with retail use on the first floor and seven dwelling units above, which is contrary to ZR §§ 42-00 and ZR 111-104(d); and

WHEREAS, the proposed building will have a total floor area of 29,118 sq. ft. (4.99 FAR), a residential FAR of 4.53, a street wall height of 66’-0” on Washington Street and 102’-0” on Canal Street, a total height of 110’-6”, without bulkheads, a maximum total height of 124’-6”, with bulkheads; and

WHEREAS, a public hearing was held on this application on November 21, 2006, after due notice by publication in the *City Record*, with a continued hearing on January 9, 2007, and then to decision on February 13,

2007; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board, consisting of Chair Srinivasan, Vice-Chair Collins, Commissioner Hinkson, and Commissioner Ottley-Brown; and

WHEREAS, Community Board 1, Manhattan, recommends approval of this application; and

WHEREAS, Canal West provided testimony in support of this application citing in particular the proposed plan to maintain the continuity of the street wall on Canal Street and Washington Street and the setback provided adjacent to the townhouses on Canal Street; and

WHEREAS, a certain neighbor provided testimony in opposition to this application, citing concerns about the building height; and

WHEREAS, the subject premises is located on the southeast corner of Washington Street and Canal Street, and has 5,837 sq. ft. of lot area; and

WHEREAS, the site is located within an M1-5 zoning district within Area B2 of the Special Tribeca Mixed Use District; and

WHEREAS, the site is currently occupied by a parking lot, with an attendant’s booth and an advertising billboard; and

WHEREAS, the applicant states that the following are unique physical conditions which create an unnecessary hardship in developing the site in conformance with applicable regulations: (1) the lot is irregularly-shaped; (2) the lot is small; and (3) the site is in a Zone A High Hazard Flood Plain; and

WHEREAS, as to the lot’s shape, the applicant states that the lot has a narrow, wedge-like shape due to its location at an angular intersection of Canal Street and Washington Street; and

WHEREAS, specifically, the applicant states that the site is bounded on the north by Canal Street, with 90’-9” of frontage; to the west by Washington Street, with 84’-10” of frontage; and to the northwest with an additional 21’-5” of frontage at the corner where the street widens at the intersection; and

WHEREAS, the applicant represents that the irregularly-shaped lot creates difficulties in developing the site because there is a high ratio of exterior walls to usable interior space for such a long and narrow site; and

WHEREAS, the applicant documented additional construction costs associated with the need for such a high proportion of exterior walls; and

WHEREAS, as to size, the applicant represents that the lot is small, which results in a disproportionate share of it being devoted to the building core, which includes elevators, stairways, and bathrooms and which is comparable in size to a core that could serve a building twice the size; and

¹ The Board notes that ZR § 111-104(d) has been re-designated ZR § 111-104(e) in a recent text amendment; however, the text of the provision remains the same and this has no bearing on the Board’s waiver of the provision.

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WHEREAS, the applicant represents that this condition results in a higher percentage of lost floor space than for a larger building with the same core; and

WHEREAS, the applicant submitted a 400-ft. radius diagram and a land use map of the area which illustrate that the site is one of only approximately three vacant parcels of the 56 sites reflected on the radius diagram and the only vacant site at the point where Canal Street widens; and

WHEREAS, as to the subsurface conditions, the applicant represents that additional foundation costs arise due to required dewatering during excavation, as well as waterproofing the foundation walls; and

WHEREAS, based upon the above, the Board finds that the aforementioned unique physical conditions, when considered in the aggregate, create unnecessary hardship and practical difficulty in developing the site in conformance with the applicable zoning regulations; and

WHEREAS, the applicant submitted a feasibility study analyzing an as of right retail/office building with an FAR of 5.0; and

WHEREAS, the applicant concluded that such a scenario would result in a loss, due to the size of the lot, as well as premium construction costs associated with the irregular lot conditions; and

WHEREAS, at hearing, the Board asked the applicant to revise the financial analysis to eliminate the value of 415 Washington Street from the comparables; and

WHEREAS, the Board did not find this comparable to be a useful comparison since its high sale value may be attributed to the Board grant associated with the site; and

WHEREAS, in response, the applicant removed the reference to 415 Washington Street's value and revised the financial analysis accordingly; 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, there is no reasonable possibility that development in strict conformance with applicable zoning requirements will provide a reasonable return; and

WHEREAS, the applicant represents that the proposed building will not alter the essential character of the neighborhood, will not substantially impair the appropriate use or development of adjacent property, and will not be detrimental to the public welfare; and

WHEREAS, the applicant states that the immediate area is a mix of residential and commercial uses, with some remaining manufacturing/industrial uses; and

WHEREAS, the applicant notes that the proposed residential use is consistent with the character of the area, which includes many other residential uses, some of which occupy the subject block; and

WHEREAS, in support of the above statements, the applicant submitted a land use map, showing the various uses in the immediate vicinity of the site; and

WHEREAS, the map reflects the following uses: an eight-story residential building directly across Canal Street, a six-story mixed-use residential/commercial building across Canal Street on the next block, and a six-story residential building and an eight-story residential building directly across Washington Street; and

WHEREAS, based upon its review of the submitted land use map and its inspection, the Board agrees that the character of the area is mixed-use, and finds that the introduction of seven dwelling units will not impact nearby conforming uses nor negatively affect the area's character; and

WHEREAS, the applicant states that the zoning district directly across Canal Street was recently rezoned to allow residential use and that the rezoned area is occupied almost entirely by residential uses; and

WHEREAS, the applicant states further that in the subject M1-5 zoning district, buildings constructed prior to December 15, 1961, with a lot coverage of less than 5,000 sq. ft., are permitted to convert all but the first floor to residential use as of right; and

WHEREAS, the applicant notes that there are additional authorizations from the City Planning Commission which permit residential conversions to buildings with lot coverage greater than 5,000 sq. ft.; and

WHEREAS, as to the height and massing, the applicant states that the proposed building would be similar in height to existing buildings in the neighborhood; and

WHEREAS, nevertheless, at hearing, the Board asked the applicant to address the compatibility of the proposed street wall and building heights to nearby buildings; and

WHEREAS, the applicant submitted information about nearby building heights which reflects that, across Canal Street, there are two completed buildings and one under construction, with heights of 120'-0" and higher; and

WHEREAS, on Washington Street, the applicant represents that the proposed 66'-0" street wall is compatible with the adjacent building's street wall of 65'-2"; the applicant represents that there are two even taller buildings on the block and adjacent subject block on the Washington Street frontage; and

WHEREAS, the applicant submitted an illustration noting the heights of buildings in proximity to the site; and

WHEREAS, the Board observes that there is a context for seven and eight-story buildings along Washington Street, Greenwich Street, and Canal Street in the vicinity of the subject site; and

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WHEREAS, specifically, the Board observes that the proposed street wall on Washington Street is slightly lower in height to the street wall of the adjacent building and is also comparable to the street wall height of the building directly across the street; and

WHEREAS, similarly, the Board notes that the proposed street wall on Canal Street is compatible with the street wall heights of the building's directly across Canal Street; and

WHEREAS, the Board notes that the applicant proposes to setback the easternmost portion of the building on the Canal Street frontage, which is more compatible with the adjacent three and four-story buildings; and

WHEREAS, the applicant represents that after a minor revision to the originally submitted plans, the ninth floor has been slightly reduced in size so that it is not visible from Canal Street; and

WHEREAS, the applicant notes that the proposed building complies with all of the bulk regulations for a residential use in a C6-2A/R8A equivalent zoning district aside from the Canal Street street wall height and setback; and

WHEREAS, based upon its review of submitted maps and photographs and its inspection, the Board agrees that the proposed building's height and FAR are consistent with other buildings in the neighborhood; and

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

WHEREAS, the applicant states, and the Board agrees, that the return associated with the proposed building represents the minimum variance; and

WHEREAS, the Board observes that the proposed building of seven dwelling units is limited in scope and compatible with nearby development; and

WHEREAS, accordingly, the Board finds that this proposal is the minimum necessary to afford the owner relief; and

WHEREAS, 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 6 NYCRR, Part 617.4; 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. 07BSA010M, dated October 19, 2006; and

WHEREAS, the EAS documents show 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, the Department of Environmental Protection's Office of Environmental Planning and Assessment has reviewed the following submissions from the Applicant: an October, 2006 Environmental Assessment Statement and an October, 2005 Phase I Environmental Site Assessment Report; and

WHEREAS, these submissions specifically examined the proposed action for potential hazardous materials, noise and air quality impacts; and

WHEREAS, a Restrictive Declaration was executed on December 27, 2006 and submitted for recordation on January 3, 2007 for the subject property to address hazardous materials concerns; 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; and

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 and grants a variance, to permit, on a site within an M1-5 zoning district, within Area B2 of the Special Tribeca Mixed Use District, a nine-story residential building with retail use on the first floor and seven dwelling units above, which is contrary to ZR §§ 42-00 and ZR 111-104(d), *on condition* that any and all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received February 8, 2007"—eleven (11) sheets; and *on further condition*:

THAT the following shall be the bulk parameters of the proposed building: nine stories, seven residential units, a total floor area of 29,118 sq. ft. (4.99 FAR), a residential FAR of 4.53, a street wall height of 66'-0" on Washington Street and 102'-0" on Canal Street, a total height of 110'-6", without bulkheads and a maximum total height of 124'-6", with bulkheads;

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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; 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, February 13, 2007.

**A true copy of resolution adopted by the Board of Standards and Appeals, February 13, 2007.
Printed in Bulletin No. 8, Vol. 92.**

Copies Sent

To Applicant

Fire Com'r.

Borough Com'r.