

**211-03-BZ**

**CEQR#03-BSA-215Q**

APPLICANT - Eric Palatnik, P.C., for Simon Blitz, Contract Vendee.

SUBJECT - Application June 20, 2003 - under Z.R. §72-21 to permit the proposed expansion and also the conversion of an existing warehouse, to residential use, Use Group 2, located in an M1-4 (Special LIC District), which does not comply with the zoning requirements for the new use, floor area and total height, is contrary to Z.R. §43-12, §43-43 and §42-10.

PREMISES AFFECTED - 529-535 48<sup>th</sup> Avenue, between Vernon Boulevard and Fifth Street, Block 30, Lot 9, Borough of Queens.

**COMMUNITY BOARD #1Q**

**APPEARANCES -**

For Applicant: Eric Palatnik.

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

**THE VOTE TO GRANT -**

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

Negative:.....0

**THE RESOLUTION -**

WHEREAS, the decision of the Borough Commissioner, dated November 24, 2003 acting on Application No. 410581793 reads:

"Proposed use is contrary to Section 42-10 ZR."; and

WHEREAS, a public hearing was held on this application on December 9, 2003 after due notice by publication in The City Record, with continued hearings on January 27, 2004 and March 9, 2004; the case was laid over to March 30, 2004 for decision and the decision was then deferred to May 11, 2004, when it was again deferred to June 8, 2004; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board; and

WHEREAS, Community Board 2, Queens recommended approval of this application and the Queens Borough President recommended conditional approval of this application; and

WHEREAS, this is an application under Z.R. §72-21, to permit the expansion and conversion of an existing manufacturing building to residential use (Use Group 2) located in an M1-4(Special LIC) zoning district, which does not comply with the zoning requirement for use, contrary to Z.R. §42-10; and

WHEREAS, the subject lot is located between Vernon Boulevard and Fifth Street in Long Island City, Queens, has a total lot area of 13,560 sq. ft., and is occupied by a 61 ft., 4 story building with a legal use of manufacturing, retail and office; and

WHEREAS, the lot is currently occupied with an existing four-story building, formerly used as a

zipper factory, which was originally two buildings that were later connected; the applicant represents that the zipper business discontinued in the summer of 2003; and

WHEREAS, the proposed development contemplates the conversion of the existing building into a five-story and penthouse building, with a floor area ratio of 4.0, the provision of 26 off-street accessory parking spaces in the cellar, and the creation of a 31' X 43' feet light and air courtyard which will be carved out of the existing building; and

WHEREAS, the applicant states that the following are unique physical conditions, which create practical difficulties and unnecessary hardships in developing the subject lot in conformity with underlying district regulations: the existing building is obsolete, in that it: (1) was constructed in two parts and is divided by heavy masonry walls that prevent the creation of open spaces that modern manufacturing facilities require; (2) has a limited amount of openings in the demising wall and small column spacing, hindering efficient movement of materials necessary for modern warehouse operations; (3) has a floor load capacity that can not support use of forklifts; (4) there is no truck loading dock, necessitating material loading at the ground floor; (5) the existing elevator is too slow; and (6) it has inadequate electrical service; and

WHEREAS, the applicant has submitted a report from an engineer describing the above conditions; and

WHEREAS, the applicant also represents that the grid structure upon which the building rests dictates both the location of the proposed light and air courtyard and the massing of the building; and

WHEREAS, 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 conformity with the current zoning; and

WHEREAS, the applicant has submitted evidence of marketing efforts, which the Board finds credible and sufficient; and

WHEREAS, the applicant has submitted a feasibility study demonstrating that developing the entire premises with a conforming use would not yield the owner a reasonable return; and

WHEREAS, the applicant submitted a supplemental letter from its financial consultant, explaining why the relocation of existing bulk to the roof area is necessary; and

WHEREAS, the Board has determined that because of the subject lot's unique physical conditions, there is no reasonable possibility that development in strict compliance with zoning will provide a reasonable return; and

WHEREAS, the applicant represents that the

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neighborhood is gradually changing to residential, and that the site is only one block away from the Queens West Development; and

WHEREAS, the applicant represents that the proposed variance will not have a negative effect on street conditions or parking, as amount of traffic generated by the number of units in the building is low, off-street accessory parking will be provided, and the existing curb cut will be re-utilized; and

WHEREAS, the Board has conducted a site visit and has reviewed the submitted land use map, and concludes that residential use of the site is appropriate given the context of the neighborhood; and

WHEREAS, in response to the concerns of Community Board No. 2, the applicant has revised the proposal to include a setback at the 48th Street side of the premises; and

WHEREAS, the applicant states that the revised proposal fully complies with the proposed rezoning of the area by the New York City Department of City Planning, with the exception of the height, which is 3 feet higher than the maximum height proposed; and

WHEREAS, therefore, 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 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 Z.R. § 72-21; and

WHEREAS, the Board has conducted an environmental review of the proposed action and the Final Environmental Assessment Statement 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; and

Resolved, that the Board of Standards and Appeals issues a Negative Declaration under 6 NYCRR Part 617 and §6-07(b) of the Rules of Procedure for City Environmental Quality Review

**A true copy of resolution adopted by the Board of Standards and Appeals, June 8, 2004.**

**Printed in Bulletin Nos. 24-25, Vol. 89.**

**Copies Sent**

**To Applicant**

**Fire Com'r.**

**Borough Com'r.**

and makes each and every one of the required findings under Z.R. §72-21 and grants a variance, to permit the expansion and conversion of an existing manufacturing building to residential use (Use Group 2) located in an M1-4(Special LIC) zoning district, which does not comply with the zoning requirement for use, contrary to Z.R. §42-10; 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 "May 24, 2004"-(13) sheets; and on further condition:

THAT the proposed accessory parking spaces in the cellar of the building shall not exceed 26 cars;

THAT the Department of Buildings will approve the layout of the cellar parking area;

THAT all applicable fire safety measures as shown on the approved plans will be complied with;

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

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 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, June 8, 2004.