

**218-02-BZ**

**CEQR#03-BSA-016K**

APPLICANT - Fischbein Badillo Wagner Harding,  
for Coney on the Park, LLC, owner.

SUBJECT - Application August 2, 2002 - under Z.R.  
§ 72-21 to permit the proposed construction of a  
twelve-story mixed-use building, Use Groups 2 and  
6, located in a C8-2 zoning district, which will  
include 75 residential units, and is contrary to Z.R.  
§32-00.

PREMISES AFFECTED - 46 Coney Island Avenue,  
between Kermit Place and Caton Avenue, Block  
5322, Tentatively Lot 65, Borough of Brooklyn.

**COMMUNITY BOARD #7BK**

APPEARANCES -

For Applicant: Howard Hornstein and Peter Geis.

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

**THE VOTE TO REOPEN HEARING -**

Affirmative: Chairman Chin, Vice-Chair Babbar,  
Commissioner Caliendo and Commissioner Miele....4

Negative: .....0

**THE VOTE TO CLOSE HEARING -**

Affirmative: Chairman Chin, Vice-Chair Babbar,  
Commissioner Caliendo and Commissioner Miele....4

Negative: .....0

**THE VOTE TO GRANT-**

Affirmative: Commissioner Chin, Vice-Chair  
Babbar, Commissioner Caliendo and Commissioner  
Miele .....4

Negative: .....0

**THE RESOLUTION -**

WHEREAS, the decision of the Borough  
Commissioner, dated July 15, 2002 acting on  
Application No. 301303104 reads:

"Residential use not permitted in a C8-2  
Zoning District. Refer to the Board of  
Standards and Appeals for Bulk and  
Residential Use"; and

WHEREAS, a public hearing was held on this  
application on December 10, 2002 after due notice by  
publication in The City Record and laid over to  
January 28, 2003, February 25, 2003, April 8, 2003  
and then to May 6, 2003, 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,  
Vice Chairman Satish Babbar, Commissioner Joel  
Miele and Commissioner Peter Caliendo; and

WHEREAS, this is an application under Z.R.  
§72-21 to permit, in a C8-2 zoning district, the  
erection of a nine-story multiple dwelling with 59  
dwelling units (Use Group 2), which is contrary to  
Z.R. §32-00; and

WHEREAS, the subject site is located on an  
approximately 15,622 square foot parcel located on  
the westerly side of Coney Island Avenue, between  
Caton Avenue and Caton Place in Brooklyn; and

WHEREAS, the record indicates that the  
subject site is irregularly shaped interior lot, with a  
depth ranging from 150' to 175'; and

WHEREAS, the applicant has submitted test  
borings taken at that site which indicate that the  
presence of substandard soil conditions and the  
necessitation of the use of a pile foundation system;  
and

WHEREAS, the Board finds that there are  
unique conditions to the lot, namely the irregular  
shape and substandard soil conditions which create  
an undue hardship and a practical difficulty in  
conforming with the current zoning; and

WHEREAS, evidence in the record, including a  
feasibility study and financial analysis sufficiently  
demonstrates that a conforming use would not yield a  
reasonable return; and

WHEREAS, in response to Board requests and  
concerns of the community, the applicant has reduced  
the height, size, and number of dwelling units; and

WHEREAS, the applicant represents that the  
C8-2 zoning district in which the subject property is  
located in, is a narrow strip which extends for only a  
few blocks along the west side of Coney Island  
Avenue; and

WHEREAS, the record indicates that the  
surrounding zoning districts are medium to  
high-density residential zones; and

WHEREAS, the neighborhood within the  
immediate vicinity of the site is characterized by a  
mixture of residential dwellings, community  
facilities, and a park; and

WHEREAS, the Board finds that the proposed  
development will neither alter the essential character  
of the neighborhood, nor impair the appropriate use  
or development of adjacent property nor be  
detrimental to the public welfare; and

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

WHEREAS, the Board finds that the variance  
application is the minimum variance 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 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.

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

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and makes each and every one of the required findings under Z.R. §72-21 to permit, in a C8-2 zoning district, the erection of a nine-story multiple dwelling with 59 dwelling units (Use Group 2), which is contrary to Z.R. §32-00, on condition that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked Received "May 2, 2003"- (9) sheets; and on further condition;

THAT the premises shall be maintained free of debris and graffiti;

THAT any graffiti located on the premises shall be removed within 48 hours;

THAT the above conditions shall be noted in the Certificate of Occupancy;

THAT substantial construction shall 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; 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) and/or configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, May 6, 2003.

**A true copy of resolution adopted by the Board of Standards and Appeals, May 6, 2003.  
Printed in Bulletin No. 20, Vol. 84.**

**Copies Sent**

**To Applicant**

**Fire Com'r.**

**Borough Com'r.**