

**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.**