

22-04-BZ

CEQR #04-BSA-126X

APPLICANT - Sheldon Lobel, P.C., for 2556 Miftar Corp., owner.

SUBJECT - Application February 9, 2004 - under Z.R. §72-21 to permit the proposed construction of a six-story garage, plus a cellar and sub-cellars, to be occupied as an enclosed fully attended commercial parking facility, Use Group 8C, located in an R7-1 zoning district, is contrary to Z.R. §22-00.

PREMISES AFFECTED - 2556 Briggs Avenue, fronting on Briggs Avenue, Poe Place and Coles Lane, Block 3293, Lots 21 and 90, Borough of The Bronx.

COMMUNITY BOARD #7BX

APPEARANCES -

For Applicant: Elysa Hwu.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO REOPEN HEARING -

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

Negative:.....0

THE VOTE TO CLOSE HEARING -

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

Negative:.....0

THE VOTE TO GRANT -

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

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated January 9, 2004, acting on Department of Buildings Application No. 200759508, reads:

“Proposed construction of a parking garage (Use Group 8C) in an R7-1 zoning district is contrary to section 22-00 Z.R.”; and

WHEREAS, a public hearing was held on this application on September 28, 2004 after due notice by publication in the City Record, with continued hearings on December 7, 2004 and January 25, 2005, and then to decision on March 1, 2005; 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 Babbar, Commissioner Miele and Commissioner Chin; and

WHEREAS, both Community Board 7, Bronx, and the Bronx Borough President recommend approval of this application; and

WHEREAS, this is an application under Z.R. § 72-21 to permit, in an R7-1 zoning district, the construction of a four-story parking garage, contrary to Z.R. § 22-00; and

WHEREAS, the subject premises consists of two pre-existing lots, lot 21 and lot 90; lot 21 fronts on Briggs Avenue and lot 90 fronts on two unmapped streets, Poe Place and Coles Lane; and

WHEREAS, the site has approximately 7,500 square feet of total lot area; and

WHEREAS, the current proposal contemplates the construction of a four-story plus cellar and sub-cellars building, with a Floor Area Ratio (“F.A.R.”) of 4.0, to be occupied as an attended, 24-hour, elevator-serviced parking garage, with 30,396 square feet of total floor area and space for 140 cars; and

WHEREAS, the original proposal sought the construction of a six-story garage with a 6.0 F.A.R.; and

WHEREAS, the currently proposed building will rise four stories above grade to a height of 46 ft., 9 in. from grade to the top of the parapet on Briggs Avenue, and six stories to a height of 64 ft., 6 in. from grade to the top of the parapet on Poe Place; and

WHEREAS, the subject building will be a masonry structure, built full on the lot, and will include rooftop parking; and

WHEREAS, the applicant submitted a parking summary for each level of the premises, which reads as follows: Sub-level 2 - 28 cars (with stackers); Sub-level 1 - 21 cars; First Floor - 0 cars; Second Floor - 21 cars; Third Floor - 21 cars; Fourth Floor - 21 cars; Roof - 21 cars; and

WHEREAS, the applicant states that the proposed garage would help alleviate the loss of parking in the neighborhood that occurred when over one hundred metered spaces were removed for the construction of Fordham Park Plaza and the creation of new bus lanes; and

WHEREAS, the applicant also states that the proposed garage would alleviate traffic congestion that arises when drivers look for parking spaces in the neighborhood; and

WHEREAS, the applicant represents that the following are unique physical conditions, which create practical difficulties and unnecessary hardship in constructing the proposed building in conformity with underlying district regulations: (1) the premises is located in an area of heavy traffic and borders a C4-4 zoning district; (2) lot 21 is the only vacant lot in the neighborhood and lot 90 measures approximately 31' x 70', which could be considered a substandard lot making it difficult or impossible to develop the lot for conforming uses; (3) lot 90 fronts only on Coles Lane and Poe Place, both of which are unmapped, contrary to Section 36 of the General City Law, and thus the two lots must be combined to allow frontage on Briggs Avenue, a mapped street; (4) there is a significant slope affecting the site; and

WHEREAS, the applicant represents that there is an approximate 20 ft. grade change affecting the site, such that the proposed garage will rise four stories above grade at the Briggs Avenue elevation and six stories above grade at the Poe Place elevation; and

WHEREAS, the Board only views the slope affecting the site and the lack of frontage on lot 90 as actual hardships; and

WHEREAS, accordingly, the Board finds that two of the unique conditions mentioned above, namely, the site's slope and lot 90's lack of frontage on a mapped street, create practical difficulties and unnecessary hardships in developing the site in strict conformity with applicable zoning regulations; and

WHEREAS, the applicant has submitted a feasibility study that demonstrates that none of the following as-of-right proposals, if developed on the subject site, would result in a reasonable return: a 36-unit apartment building; a seven-story community facility building; a mixed-use community facility and residential building; or a 36-unit apartment building with a residential parking lot; and

WHEREAS, based upon its review of the record, 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 zoning will provide a reasonable return; and

WHEREAS, the applicant states that the immediate neighborhood surrounding the site is a heavily-trafficked mixed-use district, with residential and commercial uses; and

WHEREAS, the applicant also notes that the site borders a C4-4 zoning district where the proposed commercial parking garage would be permitted as-of-right; and

WHEREAS, the Board has reviewed the submitted land use map and has conducted a site and neighborhood examination, and agrees that there are many commercial uses in the area near the site, especially on the Briggs Avenue side; and

WHEREAS, the Board finds that the proposed garage will be compatible with these nearby uses; and

WHEREAS, the Board also notes that the proposed amount of parking spaces is not so significant that there will be a negative impact on the surrounding uses; and

WHEREAS, additionally, the Board recognizes that there is a need for parking in the area; and

WHEREAS, based on the above, the Board finds that the subject application, if granted, will not alter the essential character of the surrounding neighborhood or impair the use or development of adjacent properties, nor will it 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 raised concerns regarding the applicant's original proposal, which was for a six-story garage with a 6.0 F.A.R.; and

WHEREAS, in particular, the Board expressed a concern that the proposed bulk and height of the originally proposed building was out of context with the neighboring buildings on Poe Place and Coles Lane, primarily due to the change in grade; and

WHEREAS, the Board recommended that the applicant consider the use of stackers and roof parking as a means to reduce the overall F.A.R. and height; and

WHEREAS, the applicant reduced the number of stories from six to four and the F.A.R. from 6.0 to 4.0; and

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

WHEREAS, therefore, 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 project is classified as an Unlisted action pursuant to 6NYCRR, Part 617; 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. 04-BSA-126X dated July 6, 2004; and

WHEREAS, the EAS documents 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, 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.

Therefore it is Resolved that the Board of Standards and Appeals issues a Negative Declaration, 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 Z.R. § 72-21 and grants a variation in the application of the Zoning Resolution, limited to the objections cited, to permit, in an R7-1 zoning district, the construction of a four-story parking garage, contrary to Z.R. § 22-00; *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 28, 2005" – (1) sheet and "Received February 15, 2005" –(10) sheets; and *on further condition*:

THAT there shall be a maximum of 140 parking spaces in the garage;

22-04-BZ

CEQR #04-BSA-126X

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 appear on the certificate of occupancy;

THAT the proposed garage will be constructed with the following bulk parameters: an F.A.R. of 4.0 and a height as indicated on the BSA-approved plans;

THAT the internal parking layout of the garage shall be as reviewed and approved by the Department of Buildings;

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, March 1, 2005.

**A true copy of resolution adopted by the Board of Standards and Appeals, March 1, 2005.
Printed in Bulletin Nos. 10-11, Vol. 90.**

Copies Sent

To Applicant

Fire Com'r.

Borough Com'r.