

22-11-BZ

CEQR #11-BSA-065K

APPLICANT – Simons & Wright, LLC, for Agama LLC, owner; Vorea Holdings LLC, lessee.

SUBJECT – Application March 1, 2011 – Variance (§72-21) to permit the conversion of a vacant warehouse to a physical culture establishment. R6B zoning district.

PREMISES AFFECTED – 184 North 8th Street, between Driggs and Bedford Avenues, Block 2320, Lot 16, Borough of Brooklyn.

COMMUNITY BOARD #1BK

APPEARANCES –

For Applicant: Chris Wright.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Otley-Brown, Commissioner Hinkson and Commissioner Montanez5

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated February 23, 2011, acting on Department of Buildings Application No. 320275377, reads in pertinent part:

“The proposed use of the building as a martial arts study (physical culture establishment) is not permitted as-of-right in a R6B zoning district and is contrary to Section 22-00 (use) of the Zoning Resolution and requires a variance from the Board of Standards and Appeals”; and

WHEREAS, this is an application under ZR § 72-21, to permit, within an R6B zoning district, the conversion of a vacant warehouse to a physical culture establishment (PCE), contrary to ZR § 22-00; and

WHEREAS, a public hearing was held on this application on June 21, 2011, after due notice by publication in the *City Record*, and then to decision on July 26, 2011; and

WHEREAS, the premises and surrounding area had site and neighborhood examinations by Chair Srinivasan and Commissioner Montanez; and

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

WHEREAS, the site is located on the south side of North 8th Street, between Bedford Avenue and Driggs Avenue, in an R6B zoning district; and

WHEREAS, the subject site has a total lot area of approximately 5,000 sq. ft.; and

WHEREAS, the site is currently improved upon with a vacant two-story warehouse building with 7,200 sq. ft. of floor area; and

WHEREAS, the applicant proposes to convert the existing warehouse building into a PCE; and

WHEREAS, because commercial uses are not permitted in the subject R6B zoning district, and because a special permit pursuant to ZR § 73-36 is not available in

the underlying district, the applicant requests a use variance to permit the operation of the proposed PCE at the site; and

WHEREAS, the applicant states that the following is a unique physical condition which creates an unnecessary hardship in developing the site in compliance with applicable regulations: the existing building is obsolete; and

WHEREAS, the applicant states that the subject building was constructed approximately 100 years ago and has operated as a warehouse for approximately 50 years, until the use was discontinued in 2003; and

WHEREAS, the applicant states that the building has remained vacant since the discontinuance of the warehouse use, except for the use of a small portion of the building as storage by the owner; and

WHEREAS, the applicant states that the existing building is obsolete for a conforming residential or community facility use because there are no existing windows in the subject building that can be used to provide required light and air; and

WHEREAS, the applicant further states that even if rear windows were installed in the building it would not provide legal habitable windows, because the rear wall of the site is located less than five feet from the rear lot line; and

WHEREAS, the applicant states that in order to convert the building to a conforming use with legal habitable windows, it would require the demolition of the rear thirty feet of the building, the reconstruction of the rear wall, and the complete rebuilding of the front wall to provide windows; and

WHEREAS, the applicant represents that a conforming community facility use of the building would also require major structural alterations to provide necessary amenities because the interior floor plates are bare and do not provide any walls or partitions, the building lacks windows and yards, and the brick façade of the 100-year old building is dilapidated; and

WHEREAS, the applicant states that the existing building is also obsolete for its historical use as a warehouse, as there are no loading docks and the only entrance to the building is by a small front door; and

WHEREAS, the applicant represents that the owner has engaged in a number of unsuccessful marketing efforts to lease the space, and submitted a letter from a real estate broker stating that the property has been listed for the last two years without any interest, primarily due to the obsolescence of the building; and

WHEREAS, the applicant states that the existing building is also unable to support the addition of a third floor to provide additional floor area to accommodate a conforming residential use; and

WHEREAS, in support of this statement, the applicant submitted a report from a structural engineer

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which states that the existing building does not possess adequate structural capacity to accommodate the construction of a third floor, and it would be more feasible to demolish the existing building and construct a new three-story building; and

WHEREAS, accordingly, the Board finds that the aforementioned unique physical condition creates unnecessary hardship and practical difficulty in using the site in compliance with the applicable zoning regulations; and

WHEREAS, the applicant asserts that because of its unique physical condition, there is no possibility that the development of the property in conformance with the applicable use regulations will bring a reasonable return to the owner; and

WHEREAS, the applicant submitted a feasibility study analyzing the following scenarios: (1) the conversion of the existing building to an as-of-right two-story, four-unit residential building; and (2) the proposed conversion of the existing building to a PCE use; and

WHEREAS, the applicant concluded that only the proposed use would realize a reasonable return; and

WHEREAS, based upon its review of the feasibility study, the Board has determined that because of the subject building's unique physical condition, there is no reasonable possibility that development in strict conformance with applicable use requirements will provide a reasonable return; and

WHEREAS, the applicant represents that the proposed use 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 surrounding area is characterized by a mixture of residential, commercial, industrial, and community facility uses; and

WHEREAS, the applicant submitted a 400-ft. radius diagram which reflects that the midblock portion of North 8th Street between Bedford Avenue and Driggs Avenue is predominantly occupied by three- and four-story residential buildings, but that a significant number of commercial uses are located less than a block in either direction from the site, along both Bedford Avenue and Driggs Avenue; and

WHEREAS, the radius diagram submitted by the applicant further reflects that the adjacent property to the west of the site is occupied by the rear garage door for a warehouse that fronts North 7th Street, and that there are commercial uses spread throughout the surrounding blocks; and

WHEREAS, the applicant represents that the proposed PCE use, which will be operated as a martial arts studio, will be compatible with the neighborhood as it will provide residents with a useful amenity, eliminate a vacant building from the street, and the light foot traffic generated

by the use will be spread out over the hours of the operation of the PCE; and

WHEREAS, the applicant notes that the subject site is within the Ombudsman Area of the Greenpoint-Williamsburg Industrial Business Zone ("IBZ"); and

WHEREAS, according to the Mayor's Office of Industrial and Manufacturing Businesses, Industrial Ombudsman Areas are areas located adjacent to IBZs but which reflect a greater mix of uses other than industrial; and

WHEREAS, accordingly, the applicant states that the proposed PCE use fits within the character of the Industrial Ombudsman Area of the Greenpoint-Williamsburg IBZ; and

WHEREAS, the applicant documented that the proposed PCE meets the requirements of the special permit available under ZR § 73-36 for locating PCEs in certain commercial and manufacturing zoning districts; and

WHEREAS, the applicant states that the proposed hours of operation of the PCE are 6:00 a.m. to 10:00 p.m., daily; and

WHEREAS, the applicant has agreed to install a full sprinkler system throughout the building, which will be connected to an approved fire alarm system with smoke detectors, pull stations, and audible and visual alarms connected to a Fire Department central station; and

WHEREAS, the applicant states that noise attenuation will be achieved through the existing building's solid brick construction, the installation of a three-inch sound attenuation blanket in the first and second floor ceilings, and the installation of double-glazed windows; and

WHEREAS, the Department of Investigation performed a background check on the corporate owner and operator of the PCE and the principals thereof, and issued a report which the Board has determined to be satisfactory; and

WHEREAS, based upon the above, 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, but is rather a function of the pre-existing unique physical conditions cited above; 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 ZR § 72-21; and

WHEREAS, the project is classified as an Unlisted action pursuant to Sections 617.2 of 6NYCRR; and

WHEREAS, the Board has conducted an

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environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement (EAS) CEQR No. 11BSA065K dated April 28, 2011; 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, 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, in an R6B zoning district, the conversion of an existing warehouse to a PCE, contrary to ZR § 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 July 12, 2011"- (8) sheets; and *on further condition*:

THAT there shall be no change in ownership or operating control of the physical culture establishment without prior application to and approval from the Board;

THAT the term of this grant shall be limited to ten years, and shall expire on July 26, 2021, subject to further renewal;

THAT, the hours of operation for the physical culture establishment shall be limited to 6:00 a.m. until 10:00 p.m., daily;

THAT signage on the site shall comply with C1 district regulations;

THAT the above conditions shall appear on the certificate of occupancy;

THAT Local Law 58/87 compliance shall be as

A true copy of resolution adopted by the Board of Standards and Appeals, July 26, 2011.

Printed in Bulletin No. 31, Vol. 96.

Copies Sent

To Applicant

Fire Com'r.

Borough Com'r.

reviewed and approved by DOB;

THAT fire safety measures, including full sprinklering, shall be installed in accordance with the BSA-approved plans;

THAT noise attenuation measures shall be provided in accordance with the BSA-approved plans;

THAT substantial construction shall be completed in accordance with ZR §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 of the 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, July 26, 2011.