

236-98-BZ

99-BSA-002K

APPLICANT - Greenberg Traurig, by Jay A. Segal, Esq., for Anthony Ferricola, owner.

SUBJECT - Application July 9, 1998 - under Z.R. §72-21, to permit, within an M3-1 zoning district, the conversion and enlargement of an existing one-story manufacturing building for residential use (Use Group 2), which is contrary to Z.R. §42-00.

PREMISES AFFECTED - 103/117 Kent Avenue, northwest corner of North 7th Street, Block 2317, Lots 1, 3, 5, 6, 7, 8 and 36, Borough of Brooklyn.

COMMUNITY BOARD #1BK

APPEARANCES -

For Applicant: Jay Segal.

For Opposition: John Scrofani, Fire Department.

ACTION OF THE BOARD -Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chairman Chin, Vice-Chair Bonfilio,

Commissioner Korbey and Commissioner Caliendo.....4

Negative: .....0

THE RESOLUTION

WHEREAS, the decision of the Borough Commissioner, dated July 2, 1998, acting on Applic. No.300738334, reads:

- "1. Proposed residential development is not permitted in an M3-1 zoning district.
- 2. There are no applicable bulk or parking regulations for a residential development in an M3-1 zoning district"; and

WHEREAS, Community Board No.1, Brooklyn, has recommended conditional approval of this application; and

WHEREAS, a public hearing was held on this application on February 29, 2000, after due notice by publication in the Bulletin, laid over to April 4, 2000 and then to May 2, 2000 for decision; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board consisting of Chairman James Chin, Vice Chair Paul Bonfilio, R.A., Commissioner Mitchell Korbey and Commissioner Peter Caliendo; and

WHEREAS, this is an application under Z.R. § 72-21 to permit within an M3-1 zoning district, the conversion and enlargement of an existing one story manufacturing building for residential use (Use Group 2), which is contrary to Z.R. §42-00; and

WHEREAS, the subject zoning lot is an irregularly shaped parcel, having a total lot area of approximately 20,734 square feet and frontages on both Kent Avenue and North 7th Street; and

WHEREAS, a portion of the subject zoning lot is presently improved with a manufacturing building of approximately 5,000 square feet which is currently utilized for storage and a contractor's office; and

WHEREAS, other portions of the subject zoning lot are used as accessory parking for a near-by restaurant; and

WHEREAS, evidence in the record indicates that the zoning lot is burdened by dissimilar depths along each of its frontages; and

WHEREAS, these dissimilar depths and irregular shape result in an "L" shaped parcel; and

WHEREAS, the shape of the subject zoning lot constrains the development of a building that will conform to the underlying zoning while providing for the amenities associated with a manufacturing building of today's standards; and

WHEREAS, evidence in the record indicates that the zoning lot is burdened with an existing obsolete building; and

WHEREAS, built in 1946, the existing building is undersized and is not suitable for today's manufacturing standards; and

WHEREAS, the aforementioned characteristics combine to create unique conditions which are inherent in and peculiar to the subject zoning lot; and

WHEREAS, the aforementioned conditions cause a practical difficulty and unnecessary hardship in developing the zoning lot with a conforming development; and

WHEREAS, a feasibility study demonstrates that development of the subject zoning lot with a conforming use or complying development will not yield the owner a reasonable return; and

WHEREAS, evidence in the record reveals that within the vicinity of the subject zoning lot there exist other residential uses contained within residential and mixed use buildings; and

WHEREAS, therefore, the Board finds that the proposed application will not alter the essential character of the surrounding neighborhood, impair the use or development of adjacent properties 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 is the minimum variance necessary to afford 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 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

WHEREAS, therefore, the Board has determined the proposed action will not result in any significant environmental effects provided that the potential impacts are mitigated as follows in accordance with the Conditional Negative Declaration:

1) that the applicant shall prepare a field testing scope of work for the Landmarks Preservation Commission's ("LPC") review and that the applicant shall not commence any site grading, excavation, or building construction until the LPC approves the field testing scope of work and determines that there are no archaeological concerns;

2) that the applicant is required to conduct groundwater testing on the site to characterize and delineate the potential for hazardous materials contamination;

3) that the applicant agrees, through a Declaration reviewed and approved by the NYC DEP, to address/remediate all contamination on the site prior to any disturbance ie. site grading, excavation, demolition, or building construction ;

4) that a minimum of 35 dBA window/wall attenuation be provided so that, with the windows closed, noise levels for the proposed residential project do not exceed the 45 dBA noise level requirement. The closed window condition requires that an alternate means of ventilation be provided including, but not limited to, the provision of central air-conditioning and the provision of air-conditioning sleeves containing air-conditioner or HUD approved fans; and

WHEREAS, the Board finds that proposed action is consistent with the requirements of the City's Local Waterfront Revitalization Program.

Resolved that the Board of Standards and Appeals issues a Conditional Negative Declaration under 6 NYCRR Part 617 and §6-07(b) of the Rules of Procedure for City Environmental Quality Review and makes the required findings under Z.R. §72-21 and grants a variance to permit, within an M3-1 zoning district, the conversion and enlargement of an existing one-story manufacturing building for residential use (Use Group 2), which is contrary to Z.R. §42-00, on condition that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received, March 28, 2000"-(9) sheets; and on further condition;

THAT owner will adhere to the following requirements of the Conditional Negative Declaration dated January 28, 2000 and published on February 9, 2000:

1) that the applicant shall prepare a field testing scope of work for the Landmarks Preservation Commission's ("LPC") review and that the applicant shall not commence any site grading, excavation, or building construction until the LPC approves the field testing scope of work and determines that there are no archaeological concerns;

2) that the applicant is required to conduct groundwater testing on the site to characterize and delineate the potential for hazardous materials contamination;

3) that the applicant agrees, through a Declaration reviewed and approved by the NYC DEP, to address/remediate all contamination on the site prior to any disturbance ie. site grading, excavation, demolition, or building construction ;

4) that a minimum of 35 dBA window/wall attenuation be provided so that, with the windows closed, noise levels for the proposed residential project do not exceed the 45 dBA noise level requirement. The closed window condition requires that an alternate means of ventilation be provided including, but not limited to, the provision of central air-conditioning and the provision of air-conditioning sleeves containing air-conditioner or HUD approved fans; and

THAT premises be maintained free of debris and graffiti;

THAT the development, as approved, is subject to verification by the Department of Buildings for compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under the jurisdiction of the Department; and

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

Adopted by the Board of Standards and Appeals, May 2, 2000.

A true copy of resolution adopted by the Board of Standards and Appeals, May 2, 2000.

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Copies Sent

To Applicant

Fire Com'r.

Borough Com'r.

