

268-08-BZ

APPLICANT – Sheldon Lobel, P.C., for 314 7th Avenue, LLC, owner.

SUBJECT – Application October 30, 2008 – Special Permit filed, pursuant to §73-621 of the New York City Zoning Resolution, to permit the enlargement of an as-of-right eating and drinking establishment (Use Group 6) into the footprint of an existing accessory parking garage of a mixed-use residential and commercial building. The subject site is located in a R6A/C1-4 zoning district.

PREMISES AFFECTED – 314 Seventh Avenue, southwest corner of the intersection formed by Eighth Street and Seventh Avenue, Block 1006, Lot 37, Borough of Brooklyn.

COMMUNITY BOARD #6BK

APPEARANCES –

For Applicant: Elizabeth Satian.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez5
Negative:.....0

THE RESOLUTION:

WHEREAS, the decision of the Brooklyn Borough Superintendent, dated October 24, 2008, acting on Department of Buildings Application No. 310279828, reads in pertinent part:

“Extension of commercial use is contrary to ZR Section 33-10. Applicant must be filed with the Board of Standards and Appeals pursuant to Section 73-621”; and

WHEREAS, this is an application under ZR §§ 73-621 and 73-03, to permit, within a C1-4 (R6A) zoning district, the proposed enlargement of an eating and drinking establishment (Use Group 6), which does not comply with the zoning requirements for floor area, contrary to ZR § 33-10; and

WHEREAS, a public hearing was held on this application on April 21, 2009, after due notice by publication in *The City Record*, with a continued hearing on May 19, 2009, and then to decision on June 16, 2009; and

WHEREAS, the premises and surrounding area had site and neighborhood examinations by Chair Srinivasan, Vice-Chair Collins, Commissioner Hinkson, Commissioner Montanez, and Commissioner Ottley-Brown; and

WHEREAS, Community Board 6, Brooklyn, recommends approval of the application; and

WHEREAS, the subject site is located on the southwest corner of the intersection at 8th Street and Seventh Avenue; within a C1-4 (R6A) zoning district; and

WHEREAS, the subject site has a total lot area of

1,760 sq. ft., and is occupied by an existing non-complying four-story mixed-use commercial/residential building with a floor area of 5,456 sq. ft. (3.1 FAR), and a 343 sq. ft. one-story accessory parking garage; and

WHEREAS, the applicant proposes to demolish the existing parking garage and construct a one-story enlargement to the first floor eating and drinking establishment (Use Group 6) in its place; and

WHEREAS, the applicant seeks an increase in the total floor area from 5,456 sq. ft. (3.1 FAR), to 5,806 sq. ft. (3.3 FAR); the maximum floor area permitted is 5,280 sq. ft. (3.0 FAR); and

WHEREAS, the applicant represents that the proposed floor area exceeds the maximum permitted floor area by 526 sq. ft., or ten percent; and

WHEREAS, the Board notes that ZR § 73-621 permits the enlargement of a building containing a residential use, such as the subject mixed-use commercial/residential building, if the following requirements are met: (1) the proposed FAR does not exceed the maximum permitted FAR by more than ten percent; (2) the proposed lot coverage does not exceed 110 percent of the maximum permitted; and (3) the proposed enlargement creates no new non-compliance nor increases the amount or degree of any existing non-compliance; and

WHEREAS, as to floor area ratio, the Board notes that the proposed 3.3 FAR reflects an increase of ten percent over the maximum permitted FAR of 3.0, which is within the amount permitted under the special permit; and

WHEREAS, the Board further notes that the proposed one-story enlargement is within the lot coverage requirement and does not create any new non-compliances or increase the degree of any existing non-compliance since it complies with all height and setback, lot coverage, and yard requirements; and

WHEREAS, accordingly, the Board has determined that the proposed enlargement satisfies all of the relevant requirements of ZR § 73-621; and

WHEREAS, based upon its review of the record, the Board finds that the proposed enlargement will neither alter the essential character of the surrounding neighborhood, nor impair the future use and development of the surrounding area; and

WHEREAS, the Board finds that the proposed project will not interfere with any pending public improvement project; and

WHEREAS, the Board finds that, under the conditions and safeguards imposed, any hazard or disadvantage to the community at large due to the proposed special permit use is outweighed by the advantages to be derived by the community; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the findings

268-08-BZ

required to be made under ZR §§ 73-621 and 73-03.

Therefore it is Resolved, that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under ZR §§ 73-621 and 73-03, to permit, within a C1-4 (R6A) zoning district, the proposed enlargement of an eating and drinking establishment (Use Group 6), which does not comply with the zoning requirements for floor area, contrary to ZR § 33-10; *on condition* that all work shall substantially conform to drawings as they apply to the objections above-noted, filed with this application and marked "Received May 6, 2009"–(3) sheets; and *on further condition*:

THAT the following shall be the bulk parameters of the building: a floor area increase of 526 sq. ft. above the maximum permitted FAR, for a total floor area of 5,806 sq. ft. (3.3 FAR), as illustrated on the BSA-approved plans;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objections(s) only; no approval has been given by the Board as to the use and layout of the cellar;

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 substantial construction shall be completed in accordance with ZR § 73-70; 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)/configuration(s) not related to the relief granted."

Adopted by the Board of Standards and Appeals, June 16, 2009.

**A true copy of resolution adopted by the Board of Standards and Appeals, June 16, 2009.
Printed in Bulletin No. 23, Vol. 94.**

Copies Sent

To Applicant

Fire Com'r.

Borough Com'r.