

APPLICANT - Philip P. Agusta, R.A., M.U.P., for Jenel Management Corporation, c/o 305 E. Kingsbridge Road Corp., owner.

SUBJECT - Application October 16, 1998 - under Z.R. §73-244, to permit in a C4 zoning district, an eating and drinking establishment without restrictions (U.G.12) in a building which is partly within 100' from a residential boundary.

PREMISES AFFECTED - 305 East Kingsbridge Road, east side, 44.42' south of Briggs Avenue, Block 3293, Lot 9, Borough of The Bronx.

COMMUNITY BOARD #7BX

APPEARANCES -

For Administration: John Scrofani, Fire Department.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO CLOSE HEARING -

Affirmative: Chairman Chin, Vice-Chair Bonfilio, Commissioner Korbey and Commissioner Caliendo....4
Negative:0

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 October 7, 1998, acting on Applic. No. 200422970 reads:

"1. THE USE OF THE 2ND FLOOR FOR EATING AND DRINKING EST. (U.G. 12) WITHOUT RESTRICTION IN A C4-4 ZONE WITHIN 100 FEET OF A RESIDENTIAL DISTRICT IS CONTRARY TO SECT. 32-21 Z.R. AND IS REFERRED TO THE BOARD OF STANDARDS AND APPEALS FOR A SPECIAL PERMIT UNDER SECT. 73-244 Z.R." and

WHEREAS, a public hearing was held on this application on April 27, 1999 after due notice by publication in the *Bulletin* and laid over to May 18, 1999, on May 18, 1999 the hearing was closed and a decision rendered; and

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

WHEREAS, this is an application for a special permit under Z.R. §73-244, to permit, in a C4 zoning district, an eating and drinking establishment without restrictions (U.G.12) in a building which is partly within 100' from a residential boundary; and

WHEREAS, this application has been filed jointly by the owner and operator of the establishment; and

WHEREAS, the subject site is improved with a two story and cellar building which is occupied by a

restaurant and its accessory uses on the first and cellar floors; and

WHEREAS, the portion of the second floor of the building within 100' of the residential zone is currently occupied as a catering and banquet facility while the rest of the second floor is occupied by an eating and drinking establishment without restriction (U.G. 12); and

WHEREAS, the proposal will convert the remainder of the second floor, currently used as the banquet and catering facility, to use as an eating and drinking establishment without limitation; and

WHEREAS, the proposal provides for a separation between the waiting areas and the area where dancing will occur and provides a waiting area with a capacity of 245 persons; and

WHEREAS, the Board finds that evidence in the record demonstrates that the applicant has made adequate provisions to ensure that the operation of the establishment will not result in the gathering of crowds or the formation of lines on the street; and

WHEREAS, the Board finds that the applicant has demonstrated through his operational plan, that the waiting areas provided and the availability of a parking lot 200' from the site are sufficient to prevent undue vehicular or pedestrian congestion in local streets; and

WHEREAS, the entrance to the portion of the establishment where entertainment and dancing will occur is more than 100' from the nearest residence district boundary; and

WHEREAS, the site is located on East Kingsbridge Road, a large commercial street containing large department stores and other stores; and

WHEREAS, evidence in the record indicates that residential uses on nearby streets are well removed from the subject premises; and

WHEREAS, the evidence in the record thus demonstrates that the addition of dancing at the premises has not impaired the character or the future use or development of the surrounding mixed-use neighborhood; and

WHEREAS, the evidence in the record demonstrates that the use will not cause the sound level in any affected conforming residential use to exceed the limits set forth in any applicable provision of the New York City Noise Control Code; and

WHEREAS, the Board has determined that the evidence in the record supports the findings to be made under Z.R. §73-244; 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

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WHEREAS, therefore, the Board has determined that the proposed action will not result in any significant environmental effects.

Therefore, it is Resolved that the Board of Standards and Appeals issues a Negative Declaration under 6 N.Y.C.R.R. Part 617 and §6-07(b) of the Rules of Procedure for City Environmental Quality Review and makes the required findings and *grants* a special permit under Section 73-244 of the Zoning Resolution to permit, in a C4 zoning district, an eating and drinking establishment without restrictions (U.G.12) in a building which is partly within 100' from a residential boundary, *on condition* that all work shall substantially conform to drawings as they apply to the objection above-noted, filed with this application marked "Received October 16, 1998"-(2) sheets, "December 11, 1998"-(2) sheets, "February 16, 1999"-(1) sheet and May 4, 1999"-(1) sheet; and *on further condition*;

THAT in order to minimize impacts on the nearby residential uses and insure compliance with the New York City Noise Code, all windows and doors shall remain closed during the hours that the entertainment and dancing is provided;

THAT all roof-mounted HVAC equipment shall comply with the New York City Noise Code;

THAT fire prevention measures shall be provided and maintained in accordance with BSA-approved plans and that the fire alarm be connected to an FDNY approved central stations;

THAT patrons shall not be permitted to wait or to congregate outside of the premises;

THAT this special permit shall be limited to a term of three years to expire May 18, 2002;

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

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. §73-70;

Adopted by the Board of Standards and Appeals, May 18, 1999.

A true copy of resolution adopted by the Board of Standards and Appeals, May 18, 1999.
Printed in Bulletin Nos. 21, Vol. 84.

Copies Sent
To Applicant
Fire Com'r.
Borough Com'r.

