

298-03-BZ

CEQR #04-BSA-048M

APPLICANT - Fischbein Badillo Wagner Harding, for 260 Park Avenue South, owner.

SUBJECT - Application September 12, 2003 - under Z.R. §72-21 to permit the proposed enlargement of an existing eight story building by allowing available floor area to cross district boundary lines from the adjacent building that is located in an M1-5M zoning district to said premises that is located in a C6-4A zoning district, which would exceed the maximum floor area permitted and is contrary to Z.R. §23-145.

PREMISES AFFECTED - 260 Park Avenue South, west side, between East 20th and East 21st Streets, Block 849, Lot 43, Borough of Manhattan.

COMMUNITY BOARD #5M

APPEARANCES -

For Applicant: Howard Hornstein.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

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

Negative:.....0

THE RESOLUTION -

WHEREAS, the decisions of the Borough Commissioner, dated September 9, 2003 acting on Alteration Application No. 103550195 reads:

“THE PROPOSED ENLARGEMENT AT 260 PARK AVENUE SOUTH IS CONTRARY TO SECTION 23-145 OF THE NEW YORK ZONING RESOLUTION. THE ENLARGEMENT SQUARE FOOTAGE EXCEEDS THE MAXIMUM FLOOR AREA PERMITTED.”

WHEREAS, a public hearing was held on this application on November 18, 2003 after due notice by publication in *The City Record*, and laid over to December 23, 2003 for decision; and

WHEREAS, the site and surrounding area had a site and neighborhood examination by a committee of the Board consisting of Chairman James Chin, Vice Chairman Satish Babbar, Commissioner Peter Caliendo, and Commissioner Joel Miele; and

WHEREAS, this is an application under Z.R. §72-21, to permit the proposed enlargement of an existing eight story building by allowing available floor area to cross district boundary lines from the adjacent building that is located in an M1-5M zoning district, to said premises that is located in a C6-4A zoning district, which would exceed the maximum floor area permitted, contrary to Z.R. §23-145; and

WHEREAS, a concurrent application is being filed at the Department of City Planning pursuant to Section 15-20(b) of the Zoning Resolution for an authorization waiving the use regulations of Section 15-21, which will permit residential use in floors 2-12 at 48 East 21st Street; and

WHEREAS, the subject property consists of two tax and zoning lots, Lot 45 and Lot 43, which are currently improved with commercial buildings; and

WHEREAS, Lot 45 is an irregularly shaped lot located in an M1-5M zoning district within the Ladies’ Mile Historic District and is improved with a 12 story commercial building; and

WHEREAS, Lot 43 is a rectangular lot located in a C6-4A zoning district and is currently improved with an 8 story commercial building; and

WHEREAS, the proposed project will convert the existing structures for residential use providing a shared ground floor entrance to the buildings, as well as retail space; and

WHEREAS, Lot 45 has 5,732 square feet of floor area which cannot be developed due to its location in a historic district; and

WHEREAS, the additional 5,732 square feet of floor area of Lot 45 cannot be transferred to Lot 43 without a variance, because such a transfer would exceed the allowable floor area of a C6-4A zoning district; and

WHEREAS, the proposed transfer of floor area will result in a total floor area ratio of 10.62, exceeding the permitted floor area ratio of the C6-4A zoning district by only .62; and

WHEREAS, the Board finds that there are unique physical conditions inherent to the lots, which create an unnecessary hardship in conforming strictly with the Zoning Resolution; and

WHEREAS, evidence in the record, including a feasibility study, sufficiently demonstrates that a conforming use in the entire building would not yield a reasonable return; and

WHEREAS, the Board notes that residential use is permitted within a C6-4A zoning district as-of-right; and

WHEREAS, the record indicates that the surrounding neighborhood is characterized by mixed-uses, and other buildings of a similar nature to that proposed; and

WHEREAS, the applicant also represents that proposed project is much smaller in scale than those buildings which surround it; and

WHEREAS, therefore, the Board finds that the proposed application will not alter the essential character of the surrounding neighborhood, nor impair the use of 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 this variance is the minimum variance 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 Z.R. §72-21; and

WHEREAS, the Board has conducted an

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environmental review of the proposed action and the Final Environmental Assessment Statement and has carefully considered all relevant areas of environmental concern; and

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

WHEREAS, the evidence demonstrates no foreseeable significant environmental impacts that would require the preparation of an Environmental Impact Statement.

Therefore, it is Resolved that the Board of Standards and Appeals issues a Negative Declaration under 6 NYCRR Part 617 and §6-07(b) of the Rules of Procedure for City Environmental Quality Review 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, the proposed enlargement of an existing eight story building by allowing available floor area to cross district boundary lines from the adjacent building that is located in an M1-5M zoning district to said premises that is located in a C6-4A zoning district, which would exceed the maximum floor area permitted and is contrary to Z.R. §23-145, on condition that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received December 15, 2003"- (10) sheets and on further condition;

THAT a waiver of use regulations, pursuant to Section 15-20(b) is obtained from City Planning to permit residential use in the upper floors of 48 East 21st Street;

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

THAT the above conditions shall appear on the Certificate of Occupancy;

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 including all fire safety and egress requirements, 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, December 23, 2003.

A true copy of resolution adopted by the Board of Standards and Appeals, December 23, 2003.

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Copies Sent

To Applicant

Fire Com'r.

Borough Com'r.