

36-01-BZ

CEQR#01-BSA-103M

APPLICANT - Sheldon Lobel, P.C., for Antonio Nino Vendome and Paul Raquel, LLC (OWNERS), owner.

SUBJECT - Application February 5, 2001 - under Z.R. §72-21, to permit the proposed construction of a twenty-six story, mixed-use residential structure, containing a community facility in an M2-4 zoning district, is contrary to Z.R. §42-00.

PREMISES AFFECTED - 328 Spring Street, a/k/a 489-495 Washington Street, southeast corner, Block 595, Lots 66 and 68, Borough of Manhattan.

COMMUNITY BOARD #2M

APPEARANCES -

For Applicant: Janice Cahalane.

For Opposition: Doris Diether, Community Board #2.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

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

Negative:0

Not Voting: Commissioner Miele1

THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated March 8, 2001, acting on Application No. 102600794, reads:

- "1. Proposed residential uses (U.G. 2A and 2B) are not permitted in an M2-4 zoning district pursuant to Sec. 42-00 Z.R.
2. Proposed mixed use building does not comply with the Bulk and/or Parking Regulations of Chapters 3 & 4, Article IV of the New York City Zoning Resolution."; and

WHEREAS, a public hearing was held on this application on December 12, 2001 after due notice by publication in The City Record, laid over to March 27, 2002, June 18, 2002, September 10, 2002, October 22, 2002, December 10, 2002, January 28, 2003 and then to February 11, 2003 for decision; and

WHEREAS, the premises and surrounding area had a site and neighborhood examinations by a committee of the Board consisting of Chairman James Chin, Vice Chair Satish Babbar, Commissioner Mitchell Korbey and Commissioner Peter Caliendo; and

WHEREAS, this is an application under Z.R. §72-21, to permit the proposed construction of an eleven-story building, with residential uses on the second through eleventh floors, and commercial uses on the ground floor, located in an M2-4 zoning district, which is contrary to Z.R. §42-00; and

WHEREAS, the subject premises is located at the intersection of Washington and Spring Street, composed of two tax lots (#66 and 68), and has a total area of 7,805 square feet; and

WHEREAS, the applicant represents that Lot 66 is currently improved with a one-story automobile repair building, and Lot 68 is improved with a two-story food distribution and warehouse building; and

WHEREAS, the applicant seeks to demolish the existing buildings on the site, and erect the proposed building, utilizing transferred development rights from various contiguous zoning lots; and

WHEREAS, through a series of voluminous submissions, the applicant has demonstrated that the subject site is burdened with a number of unique conditions inherent to the lot which create an unnecessary hardship and practical difficulty in constructing a conforming development; and

WHEREAS, these conditions include the functional obsolescence of the existing buildings on the site, the adjacency of the lot to the main tube of the Holland Tunnel, and the location of the lot; and

WHEREAS, the applicant represents that the two existing buildings located on the subject lots are functionally obsolete, each lacking in sufficient space for a conforming use, and that the costs to upgrade the buildings to permitted uses are prohibitive;

WHEREAS, evidence in the record indicates that the location on Spring Street, a highly-traveled arterial leading to the Holland Tunnel, and the narrow frontage on Washington Street render a conforming manufacturing or commercial building infeasible; and

WHEREAS, the Board notes that due to the high level of traffic and the relatively narrow width of Spring Street, maneuvering space required for a tractor trailer vehicle to access an off-street enclosed loading dock is impractical; and

WHEREAS, the aforementioned unique physical conditions of the lot makes its occupancy for a conforming use impractical and creates an unnecessary hardship in developing the site in conformity with the current zoning; and

WHEREAS, the applicant has provided several as-of-right scenarios and a feasibility study and has sufficiently demonstrated that each one of these developments would not yield a reasonable return; and

WHEREAS, therefore the Board finds that the applicant has demonstrated that developing the premises with a conforming use would not yield the owner a reasonable return; and

WHEREAS, the record indicates that surrounding neighborhood is characterized by residential and mixed-use developments; and

WHEREAS, in response to community-based concerns and at the request of the Board, the applicant has significantly reduced the height and overall bulk of the project, resulting in less floor area, and a reduction in the number of dwelling units; and

WHEREAS, the Board notes that the Department of City Planning has undertaken a zoning study which proposes to change the M2-4 district in which the subject parcel is located, to a C6-2A; and

36-01-BZ

CEQR#01-BSA-103M

WHEREAS, the Board also notes that the proposed development would comply in significant respect with the C6-2A use and bulk regulations; and

WHEREAS, therefore, 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 hardship herein was not created by the owner or a predecessor in title; and

WHEREAS, 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 Z.R. §72-21; and

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

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, to permit the proposed construction of an eleven-story building, with residential uses on the second through eleventh floors, and commercial uses on the ground floor, located in an M2-4 zoning district, 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 October 1, 2002"-(8) sheets; and on further condition;

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

THAT the above conditions shall be noted in 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

A true copy of resolution adopted by the Board of Standards and Appeals, February 11, 2003.
Printed in Bulletin No. 8, Vol. 88.

Copies Sent

To Applicant

Fire Com'r.

Borough Com'r.

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) and/or configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, February 11, 2003.

