

365-02-BZ

CEQR #03-BSA-105K

APPLICANT - Agusta & Ross, for 4306 3rd Avenue, LLC, owner.

SUBJECT - Application December 16, 2002 - under Z.R. §72-21 to permit in an M1-2 district, the proposed vertical enlargement of a vacant former mixed use multiple dwelling for office and showroom uses which is contrary to floor area and rear yard requirements of Z.R. §§43-12 and 43-26.

PREMISES AFFECTED - 4306 Third Avenue, north side, 22' west of 43rd Street, Block 727, Lot 41, Borough of Brooklyn.

COMMUNITY BOARD #7BK

APPEARANCES -

For Applicant: Mitchell Ross.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO REOPEN HEARING -

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

Negative:0

THE VOTE TO CLOSE HEARING -

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

Negative:0

THE VOTE TO GRANT -

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

Negative:0

THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated November 21, 2002 acting on Alt. 1. Application No. 301329220 in pertinent part reads:

“This request is made for a BSA approval:

Max Permitted	Existing	Proposed
F.A.R.	2.0	1.58
-ZR43-12		3.41

Min Required	Existing	Proposed
Rear Yard	20'-0"	10'-1 ¼"
-ZR43.26"	10'-1 ¼"	10'-1 ¼"

and

WHEREAS, a public hearing was held on this application on June 3, 2003 after due notice by publication in The City Record and laid over to July 15, 2003 for decision; and

WHEREAS, Community Board No. 7 in Brooklyn recommended approval of the subject application; and

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

WHEREAS, this is an application under Z.R. §72-21 to permit in an M1-2 district, the proposed vertical enlargement of a vacant former mixed use multiple dwelling for office and showroom uses which is contrary to floor area and rear yard

requirements of Z.R. §§43-12 and 43-26; and

WHEREAS, the subject site is located on the westerly side of Third Avenue, fronting upon the elevated Gowanus Expressway (near 43rd Street); and

WHEREAS, the record indicates that the premises was originally designed in the 1940s as a mixed use apartment building, with ground floor retail and two apartments above, but this building was gutted by fire damage in 1996 resulting in the existing two-story structure; and

WHEREAS, the applicant represents that the site predates the construction of the Gowanus Expressway and that its proximity to the Expressway has led to the demise of the residential aspects of the immediate area as evidenced by the subject building’s vacancy of nearly ten years; and

WHEREAS, the applicant has demonstrated that the instant application will enable the productive use of a long vacant, former burnt out building; and

WHEREAS, the aforementioned history of development since the introduction of the Gowanus Expressway and the building’s severe fire damage yields a building that despite documented efforts to obtain a conforming tenant is obsolete for conforming manufacturing uses; and

WHEREAS, therefore the Board finds the above conditions create an undue burden in conforming to applicable zoning; and

WHEREAS, the applicant has submitted a feasibility study demonstrating that developing the site with a conforming use would not yield a reasonable return; and

WHEREAS, the record indicates that the introduction of office and showroom uses at the subject site would not adversely affect the character of the surrounding neighborhood; and

WHEREAS, the record indicates that the surrounding area is characterized by commercial/manufacturing uses; and

WHEREAS, therefore, the Board finds that the instant applications 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, the Board finds that 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 §72-21 of the Zoning Resolution; and

WHEREAS, the Board has conducted an environmental review of the proposed action and the Final Environmental Assessment Statement and has

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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 in an M1-2 district, the proposed vertical enlargement of a vacant former mixed use multiple dwelling for office and showroom uses which is contrary to floor area and rear yard requirements of Z.R. §§43-12 and 43-26, *on condition* that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received July 11, 2003"-(2) sheets and "Received March 27, 2003"-(5) sheets; and on further condition;

THAT the premises shall comply with all applicable accessibility regulations including any elevator requirements; and

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 the applicant shall comply with all applicable fire safety measures;

THAT 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 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, July 15, 2003.

**A true copy of resolution adopted by the Board of Standards and Appeals, July 15, 2003.
Printed in Bulletin No. 28-29, Vol. 88.**

Copies Sent

To Applicant

Fire Com'r.

Borough Com'r.