

368-03-BZ

CEQR #04-BSA-094Q

APPLICANT - Eric Palatnik, P.C., for The Greater Allen Cathedral of New York, owner, Allen AME Housing Corp., lessee.

SUBJECT - Application August 28, 2003 - under Z.R. §72-21 to permit a proposed four-story mixed-use residential/commercial development (Use Groups 2 and 6), located in an R3-2/C1-2 zoning district, which does not comply with the zoning requirements for floor area, open space, lot coverage, number of dwelling units, perimeter wall height, total height, front yard, setbacks, sky exposure, parking, and loading, contrary to ZR §§23-141(b), 23-22, 23-631(b), 23-631(b)(4), 23-45, 25-23, 25-231, 25-72, and 35-31.

PREMISES AFFECTED - 110-42 Merrick Boulevard, between 111th Avenue and 110th Road (Former Lots 65 and 67-76), Block 10200, Lot 71 (tent), Borough of Queens.

COMMUNITY BOARD #12Q

APPEARANCES -

For Applicant: Eric Palatnik.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO REOPEN HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele, Commissioner Caliendo and Commissioner Chin.....5

Negative:.....0

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele, Commissioner Caliendo and Commissioner Chin.....5

Negative:.....0

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele, Commissioner Caliendo and Commissioner Chin.....5

Negative:.....0

THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated July 13, 2004, acting on Department of Buildings Application No. 401723685, reads:

- “1. Proposed floor area is contrary to ZR 23-141 b.
- 2. Proposed open space is contrary to ZR 23-141 b.
- 3. Proposed lot coverage is contrary to ZR 23-141 b.
- 4. Proposed number of dwelling units is contrary to ZR 23-22.
- 5. Proposed perimeter wall height is contrary to ZR 23-631 b.
- 6. Proposed total height is contrary to ZR 23-631 b.
- 7. Proposed front yard is contrary to ZR 23-45.

- 8. Proposed setback is contrary to ZR 23-45.
- 9. Proposed sky exposure plane is contrary to ZR 23-631(b)(4).
- 10. Proposed parking is contrary to ZR 25-23 and ZR 25-231.
- 11. Proposed loading is contrary to ZR 25-72.
- 12. Proposed floor area is contrary to ZR 35-31.”; and

WHEREAS, a public hearing was held on this application on August 17, 2004, after due notice by publication in the *City Record*, and then to decision on September 14, 2004; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board, consisting of Chair Srinivasan and Vice-Chair Babbar; and

WHEREAS, both Community Board 12, Queens, and the Queens Borough President recommend approval of this application; and

WHEREAS, this is an application under Z.R. §72-21, to permit a proposed four-story mixed-use residential/commercial development (Use Groups 2 and 6), located in an R3-2/C1-2 zoning district, which does not comply with the zoning requirements for floor area, open space, lot coverage, number of dwelling units, perimeter wall height, total height, front yard, setbacks, sky exposure, parking and loading, contrary to ZR §§23-141(b), 23-22, 23-631(b), 23-631(b)(4), 23-45, 25-23, 25-231, 25-72, and 35-31; and

WHEREAS, the subject premises is located on Merrick Blvd. in the Jamaica section of Queens, on the western side of Merrick Blvd. between 110th Road and 111th Avenue; and

WHEREAS, the lot is 28,942 sq. ft. in size, and is comprised of 11 tax lots, two of which are vacant land, eight of which are occupied by vacant two-story taxpayer type dwellings, and one of which is developed with a vacant one-story commercial structure; and

WHEREAS, the Greater Allen Cathedral of New York (the “Cathedral”), a not-for-profit entity, is located across the street from the subject premises; the Cathedral, along with their development arm, Allen AME Housing Corporation, are the owners and developers of the proposed affordable housing development; and

WHEREAS, the applicant proposes to construct a four-story affordable housing mixed-use development, which requires the demolition of the existing structures; and

WHEREAS, the proposal contemplates parking at the cellar level for 53 motor vehicles, including 25 parking spaces dedicated for the commercial uses, one parking space for the community facility use and 27 parking spaces dedicated to the residential tenants; and

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WHEREAS, the first floor will contain nine separate storefronts which will front Merrick Blvd., and will also contain a community facility element; and

WHEREAS, the second through fourth floors will contain 54 affordable housing dwelling units, including six studios, 24 one-bedroom units, and 24 two-bedroom units; and

WHEREAS, 9 of the units will be designated for individuals with physical disabilities; and

WHEREAS, the applicant states that the proposed development will almost entirely comply with the anticipated R6A zoning for the site, which is part of a broad contemplated rezoning in this area of Queens, proposed by the New York City Department of City Planning; and

WHEREAS, the applicant further states that due to funding concerns, the proposed development must be initiated as soon as possible, and thus the Cathedral cannot wait until the proposed rezoning, which is not expected to occur until late 2005; and

WHEREAS, the proposed building will meet the requirements of the Quality Housing Program, and will contain an elevator, and parking, recreation and laundry facilities; and

WHEREAS, the applicant states that the objective of the proposed development is to address the mission of the Cathedral, which includes the provision of affordable housing to area residents who are in desperate financial need and could not otherwise afford housing; and

WHEREAS, accordingly, the applicant states that the proposed rents are to be set as follows: (1) 15% of the units will have rents set at or below 30% of median income; (2) 26% of the units will have rents set at or below 50% of median income; and (3) 59% of the units will have rents set at or below 60% median income; and

WHEREAS, the applicant represents that the following is a unique physical condition, which creates practical difficulties and unnecessary hardship in developing the site in compliance with underlying district regulation: the subject site is underdeveloped and is improved with obsolete taxpayer structures and vacant land; and

WHEREAS, the applicant also claims that the basis of the uniqueness relates to the programmatic needs of the Cathedral; and

WHEREAS, the applicant states that in order for the proposed development to be financially viable, and to meet the requirements of the various sources of funding needed for this affordable housing development, a minimum number of dwelling units is required; and

WHEREAS, the applicant argues that this number of dwelling units cannot be achieved under the existing R3-2/C1-2 zoning designation and thus it is necessary to develop the premises nearly in

accordance with an R6A zoning district; and

WHEREAS, the applicant notes that housing assistance to members of the congregation is a long-standing programmatic goal of the Cathedral; and

WHEREAS, the applicant claims that many of the persons which the Cathedral serves are without permanent housing; and

WHEREAS, the applicant further claims that the commercial component of the proposed development achieves the Cathedral's broader goal of "community development", which helps establish and/or maintain the long-term viability of a neighborhood by addressing several broad elements of development, such as the delivery of convenient goods and services, as well as enhancement of stability and promotion of the positive attributes of a neighborhood; and

WHEREAS, the Board notes that the proposed development will be directly across from the Cathedral headquarters, which will allow for both diminished oversight costs and easy access for the prospective tenants to the myriad of programs of the Cathedral; and

WHEREAS, the Board also notes that the commercial component will provide easily accessible retail shopping to the prospective tenants, especially those with physical disabilities; and

WHEREAS, the Board finds that the proposed variances are needed to allow for a specific number of units sufficient to generate annual income from rent to cover operating costs and debt servicing; and

WHEREAS, the Board finds that the applicant submitted sufficient information explaining the programmatic needs of the applicant and their relation to the requested variance; and

WHEREAS, the Board further finds that the zoning lot is the only available underdeveloped parcel adjacent to the Cathedral that is suitable for the contemplated development; and

WHEREAS, based upon the foregoing, the Board finds that the unique condition mentioned above, when considered in conjunction with the programmatic needs of the applicant, creates practical difficulties and unnecessary hardship in developing the site in strict compliance with current applicable zoning regulations; and

WHEREAS, the applicant need not address Z.R. §72-21(b) since the applicant is a not-for-profit organization and the proposed application will be in furtherance of its programmatic needs; and

WHEREAS, the applicant states that the proposed variance will not affect the character of the neighborhood, impair the appropriate use or development of adjacent property or be detrimental to the public welfare; and

WHEREAS, the applicant claims that proposed development has been tastefully designed and will meet the requirements of the Quality Housing

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Program; and

WHEREAS, the applicant notes that the subject premises is situated within the boundaries of a proposed rezoning, which will re-designate the existing zoning district which extends north from the subject site on Merrick Blvd with R6A zoning; and

WHEREAS, R6A zoning provides for a 3.0 FAR and a wall height of 40 to 60 feet, comparable to that proposed in the instant application; and

WHEREAS, the applicant states that the proposed bulk of the development is comparable to numerous structures in the area, including: (1) a three-four story building at 116th Avenue and Merrick Blvd.; (2) a six-story building on Linden Blvd.; and (3) the Allen Christian School on Linden Blvd.; and

WHEREAS, the applicant has submitted photos of other buildings in the surrounding area with bulk comparable to the proposed development; and

WHEREAS, the Board finds that the bulk and height of the proposed development is not out of context with surrounding buildings on Merrick Boulevard (a wide street), including the Cathedral building, and other four, five and six story buildings in the area; and

WHEREAS, the applicant's traffic and parking expert has submitted an on-street parking/delivery analysis, dated September 8, 2004, which shows that available on-street parking will accommodate the parking demands related to the proposed development; and

WHEREAS, this same analysis concludes that commercial deliveries could easily be accommodated in front of the proposed commercial stores, or on surrounding streets, where no posted parking regulations exist; and

WHEREAS, the Board has reviewed the parking/delivery analysis and finds it credible and sufficient; and

WHEREAS, the Board notes that during its site visit it observed the ample availability of unregulated on-street parking; and

WHEREAS, the applicant states that the 2,351 sq. ft. unenclosed, roof-top recreation space will compensate for the lack of open space at the premises; and

WHEREAS, based on the above, the Board finds that the subject application, if granted, will not alter the essential character of the surrounding neighborhood or impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

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

WHEREAS, the Board finds that the current 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 project is classified as an Unlisted action pursuant to 6NYCRR, Part 617; and

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in an Environmental Assessment Statement (EAS) CEQR No. 04-BSA-094Q dated July 13, 2004; and

WHEREAS, the EAS documents that the project as proposed would not have significant adverse impacts on Land Use, Zoning, and Public Policy; Socioeconomic Conditions; Community Facilities and Services; Open Space; Shadows; Historic Resources; Urban Design and Visual Resources; Neighborhood Character; Natural Resources; Hazardous Materials; Waterfront Revitalization Program; Infrastructure; Solid Waste and Sanitation Services; Energy; Traffic and Parking; Transit and Pedestrians; Air Quality; Noise; Construction Impacts; and Public Health; and

WHEREAS, the July 13, 2004 EAS and the parking survey submitted on September 9, 2004 specifically examined the proposed action for potential parking demand impacts and determined that there would not be any impacts; and

WHEREAS, no other significant effects upon the environment that would require an Environmental Impact Statement are foreseeable; and

WHEREAS, the Board has determined that the proposed action will not have a significant adverse impact on the environment.

Resolved, that the Board of Standards and Appeals issues a Negative Declaration prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended and makes each and every one of the required findings under Z.R. §72-21, to permit a proposed four-story mixed-use residential/commercial development (Use Groups 2 and 6), located in an R3-2/C1-2 zoning district, which does not comply with the zoning requirements for floor area, open space, lot coverage, number of dwelling units, perimeter wall height, total height, front yard, setbacks, sky exposure, parking, and loading, contrary to ZR §§23-141(b), 23-22, 23-631(b), 23-631(b)(4), 23-45, 25-23, 25-231, 25-72, and 35-31, *on condition* that all work shall substantially conform to drawings as they apply to the objection above noted, filed with this application marked "Received August 16, 2004"- (11) sheets; and *on further condition*;

THAT any change in use or ownership of the subject premises must be approved in advance by the Board of Standards and Appeals;

THAT parking shall be provided as shown on

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BSA-approved plans;

THAT a 2,351 sq. ft. roof top recreation area shall be provided as shown on BSA-approved plans;

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

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

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, September 14, 2004.

**A true copy of resolution adopted by the Board of Standards and Appeals, September 14, 2004.
Printed in Bulletin Nos. 36-38, Vol. 89.**

Copies Sent

To Applicant

Fire Com'r.

Borough Com'r.