

425-05-BZ

CEQR #06-BSA-045K

APPLICANT– Steven Sinacori of Stadtmauer & Bailkin, for Essol Realty, LLC, owner.

SUBJECT – Application December 28, 2005 – Variance (§72-21) to allow a proposed three-story residential building with ground floor community facility use to violate applicable requirements for floor area and FAR (§23-141c and §24-162), front yard (§24-34), side yards (§24-35), lot coverage (§23-141 and §24-111) and minimum distance between legally required windows and lot lines (§23-86(a)). Proposed development will contain five (5) dwelling units and three (3) parking spaces and is located within an R4 zoning district.

PREMISES AFFECTED – 2409 Avenue Z, north side of Avenue Z, Bedford Avenue to the east, East 24th to the west, Block 7441, Lots 1 and 104, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Calvin Wong.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice-Chair Collins, Commissioner Ottley-Brown and Commissioner Hinkson.....4

Negative:.....0

THE RESOLUTION:

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated May 7, 2007, acting on Department of Buildings Application No. 302041270, reads in pertinent part:

- “1. Proposed floor area is contrary to ZR §§ 23-141 and 24-162.
- 2. Proposed front and side yard are contrary to ZR §§ 24-34 and 24-35 respectively.
- 3. Proposed lot coverage and open space are contrary to ZR §§ 23-141 and 24-111 respectively.
- 4. Proposed minimum distance between legally required windows and lot lines is contrary to ZR § 23-86(a).
- 5. Proposed number of parking spaces is contrary to ZR § 25-22.”; and

WHEREAS, the decision of the Brooklyn Deputy Borough Commissioner, dated May 7, 2007, acting on Department of Buildings Application No. 302041270, reads in pertinent part:

“Maximum width of curb cut to be 15’-0”.”; and

WHEREAS, this is an application under ZR § 72-21, to permit, on a site within an R4 zoning district, the proposed construction of a three-story mixed-use residential and community facility building, which does not comply with applicable zoning requirements concerning floor area, FAR, front and side yards, lot

coverage, minimum distance between legally required windows and lot lines, number of parking spaces, and curb cut width, contrary to ZR §§ 23-141, 23-86, 24-111, 24-162, 24-34, 24-35, 25-22, and 25-631; and

WHEREAS, the proposed building will have a community facility floor area of 1,010 sq. ft. (0.24 FAR), a residential floor area of 7,621 sq. ft. (1.80 FAR), and a total floor area of 8,631 sq. ft. (2.04 FAR) (7,408 sq. ft. of floor area and an FAR of 1.75 are the maximum permitted), a complying street wall and total height of 33 feet (without bulkhead), three parking spaces (five are required), and a curb cut width of 22’-0” (15’-0” is the maximum permitted); and

WHEREAS, a public hearing was held on this application on January 30, 2007 after due notice by publication in the *City Record*, with a continued hearing on April 24, 2007, and then to decision on May 15, 2007; and

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

WHEREAS, Community Board 15, Brooklyn, recommends approval of the application; and

WHEREAS, the subject premises is located on the north side of Avenue Z, between East 24th Street and Bedford Avenue, within an R4 zoning district; and

WHEREAS, the site comprises tax lot 1, which has a small triangle shape with frontage on Avenue Z, and tax lot 104, a long narrow trapezoid which has frontage on Avenue Z and abuts tax lot 1 along its rear lot line; together, the lots form the approximate shape of a large triangle; and

WHEREAS, the lots are proposed to be merged into a single zoning lot, Lot 104; and

WHEREAS, the site has approximately 142’-11” of frontage on Avenue Z and a lot area of 4,233 sq. ft.; and

WHEREAS, the site is currently occupied by a vacant two-story building which was formerly used as a deli/grocery store and will be demolished in anticipation of the new building; and

WHEREAS, the applicant proposes to construct an 8,631-sq. ft., three-story, five-family mixed-use residential/community facility building; and

WHEREAS, specifically, a portion of the cellar and first floor will be occupied by community facility use; the remainder of the first floor will be occupied by one dwelling unit and the second and third floors will each be occupied by two dwelling units; two parking spaces will be enclosed on the first floor and one parking space will be provided outside the building; and

WHEREAS, as noted above, the proposed building requires certain waivers; thus, the instant variance application was filed; and

WHEREAS, the applicant states that the following are unique physical conditions which create unnecessary

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hardship and practical difficulties in developing the site with a complying building: (1) the site is small and irregularly shaped; and (2) the adjacent built conditions constrain the development of the site; and

WHEREAS, as to the shape and size of the site, the applicant states that the site has frontage of approximately 142'-11" on Avenue Z and has a depth ranging from 57'-0" at its eastern end to 0'-0" at its western end; and

WHEREAS, the applicant represents that, due to these conditions, if the required front yard of 10'-0" were provided, the building depth would range from only 11 to 38 feet and the FAR would only be 1.02 (1.75 is the maximum permitted FAR); and

WHEREAS, accordingly, the applicant represents that the site does not have sufficient area and depth to support a complying residential or mixed-use structure over a substantial portion of the site and to provide the required yards; and

WHEREAS, the applicant notes that the front yard and the eastern side yard are existing non-complying conditions which will be maintained; and

WHEREAS, further, the applicant notes that the second side yard will be provided at varying widths of approximately 3'-6" due to the need to provide right angles at the rear of the building to accommodate an adequate building depth and efficient layout; and

WHEREAS, the applicant states that the triangular shape causes two additional problems: (1) the sharply-angled site requires the building to have a high ratio of perimeter wall to floor area, which results in premium construction costs; and (2) irregularly-shaped and inefficient floor plates compromise the amount of usable space for dwelling units and parking; and

WHEREAS, the applicant also notes that the small size of the lot makes it impractical to comply with the parking requirement while still providing a reasonable site plan and layout for the building; and

WHEREAS, specifically, the shallow depth of the site makes it infeasible to accommodate parking below grade and the five required parking spaces cannot be feasibly accommodated at the site; and

WHEREAS, the applicant represents that, due to the constraints of the site, the 22'-0" curb cut is required in order to accommodate access to the three parking spaces; and

WHEREAS, as to the surrounding conditions, the adjacent building on Lot 68, with frontage around the corner on East 24th Street, abuts the lot line at the narrowest portion of the subject site; and

WHEREAS, additionally, the existing building on the site is attached to a two-story mixed-use commercial building at the corner of Avenue Z and Bedford Avenue, which is not part of this application; and

WHEREAS, the applicant represents that the

conditions on these adjacent lots limits the ability to develop the lot in compliance with all regulations; and

WHEREAS, the applicant represents that the configuration of the lot and the built conditions (1) confines the development to only a portion of the site and (2) requires that certain required windows be provided without sufficient distance from the lot line; and

WHEREAS, as to the uniqueness of this condition, the applicant represents that this site is one of approximately five irregularly-shaped sites within the 400-ft. radius and one of only two which also have surrounding conditions which so limit the development of the site; and

WHEREAS, based upon the above, the Board finds that the aforementioned unique physical conditions, when considered in the aggregate, create unnecessary hardship and practical difficulty in developing the site in compliance with the applicable zoning regulations; and

WHEREAS, the applicant submitted a feasibility study which analyzed an as of right mixed-use community facility/residential alternative, which provided for a two-story with attic building with community facility use on the ground floor and a total of three residential units on the upper floors; and

WHEREAS, the study concluded that the complying scenario would not realize a reasonable return, since a complying building would have compromised and inefficient floor plates and would not accommodate all of the available floor area; and

WHEREAS, based upon the above, the Board has determined that because of the subject lot's unique physical conditions, there is no reasonable possibility that development in strict compliance with zoning will provide a reasonable return; and

WHEREAS, the applicant represents that the proposed building will not alter the essential character of the neighborhood, will not substantially impair the appropriate use or development of adjacent property, and will not be detrimental to the public welfare; and

WHEREAS, the applicant represents that the area is occupied by a mix of uses including two- and three-story two family residences, detached single-family homes, three- and four-story multi-family residences, and two-story mixed-use buildings with commercial use on the first floor; and

WHEREAS, the applicant initially proposed a four-story building but reduced the height to three stories to be more compatible with nearby uses; and

WHEREAS, the applicant also agreed to provide the outdoor parking away from and provide landscaping along the westernmost portion of the rear lot line to diminish the impact on the adjacent residential use built to the lot line; and

WHEREAS, the applicant also agreed to set the building back one foot from the street line in order to

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match the street wall of the adjacent commercial building on Avenue Z; and

WHEREAS, the Board notes that the current proposal respects the height and street wall requirements of the subject zoning district; and

WHEREAS, based upon the above, 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 Board finds that the hardship herein was not created by the owner or a predecessor in title, but is the result of the pre-existing size and shape of the lot; and

WHEREAS, as noted, the applicant initially proposed a four-story building with an FAR of 2.68; these parameters have been reduced to a three-story building with an FAR of 2.04; and

WHEREAS, accordingly, the Board finds that this proposal is the minimum necessary to afford the owner relief; and

WHEREAS, based upon the above, the Board has determined that the evidence in the record supports the findings required to be made under ZR § 72-21; and

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

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement (EAS) CEQR No. 06BSA045K, dated August 17, 2006; 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; Waterfront Revitalization Program; Infrastructure; Hazardous Materials; Solid Waste and Sanitation Services; Energy; Traffic and Parking; Transit and Pedestrians; Air Quality; Noise; and Public Health; 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.

Therefore it is Resolved, that the Board of Standards

A true copy of resolution adopted by the Board of Standards and Appeals, May 15, 2007.

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Copies Sent

To Applicant

Fire Com'r.

Borough Com'r.

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 ZR § 72-21 and grants a variance to permit, on a site within an R4 zoning district, the proposed construction of a mixed-use three-story residential and community facility building, which does not comply with applicable zoning requirements concerning floor area, FAR, front and side yards, lot coverage, minimum distance between legally required windows and lot lines, number of parking spaces, and curb cut width, contrary to ZR §§ 23-141, 23-86, 24-111, 24-162, 24-34, 24-35, 25-22, and 25-631 *on condition* that any and all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received March 1, 2007"- ten (10) sheets and "Received May 1, 2007" – one (1) sheet; and *on further condition*:

THAT the following are the bulk parameters of the proposed building: a community facility floor area of 1,010 sq. ft. (0.24 FAR), a residential floor area of 7,621 sq. ft. (1.80 FAR), and a total floor area of 8,631 sq. ft. (2.04 FAR), a street wall and total height of 33 feet (without bulkhead), three parking spaces, and a curb cut width of 22'-0", as indicated on the BSA-approved plans;

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

Adopted by the Board of Standards and Appeals, May 15, 2007.