

**92-03-BZ**

**CEQR #03-BSA-152M**

APPLICANT - Sheldon Lobel, P.C., for Parkside Inc., owner.

SUBJECT - Application March 25, 2003 - under Z.R. §73-52 to permit the proposed residential development of an entire zoning lot with 3 three story, three family attached dwellings, on a vacant lot divided by an R7-2 and M1-1 district boundary, which is contrary to Z.R. §43-10 and which requires a special permit to allow the extension of the residential use to a 25 foot portion of the lot within the M1-1 zoning district.

PREMISES AFFECTED - 472 West 130<sup>th</sup> Street, southwesterly corner of the intersection of West 130th Street and Convent Avenue, Block 1969, Lots 64, 67 and 68, Borough of Manhattan.

**COMMUNITY BOARD #9M**

APPEARANCES -

For Applicant: Janice Cahalane.

**ACTION OF THE BOARD** - Application granted on condition.

**THE VOTE TO GRANT** -

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

Negative:.....0

**THE RESOLUTION** -

WHEREAS, the decision of the Borough Commissioner, dated March 11, 2003, acting on Department of Buildings Application No. 103157003, reads:

“1. Proposed residential use is not permitted as of right in a M1-1 district. It is contrary to Section 43-10 Z.R.”; and

WHEREAS, a public hearing was held on this application on November 5, 2003 after due notice by publication in the City Record; with continued hearings on December 9, 2003, December 23, 2003, February 3, 2004, March 2, 2004, and then laid over for decision to March 30, 2004; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board; and

WHEREAS, the Housing Land Use Committee of Community Board 9, Manhattan, does not object to the subject proposal; and

WHEREAS, this is an application under Z.R. §73-52 to permit the proposed residential development of an entire zoning lot with 3 three story, three family attached dwellings, on a vacant lot divided by an R7-2 and M1-1 district boundary, which is contrary to Z.R. §43-10 and which requires a special permit to allow the extension of the residential use to a 25 foot portion of the lot within the M1-1 zoning district; and

WHEREAS, the zoning lot has an area of 5,140 square feet, and is comprised of three tax lots (lot 64,

67 and 68); these lots have been combined into one zoning lot through a Zoning Lot Merger; and

WHEREAS, tax lot 64 is 2,405 square feet in area and is located in that section of the zoning lot that is within the M1-1 zoning district; tax lots 67 and 68 have a combined area of 2,735 square feet and are located in that section of the zoning lot that is within the R7-2 zoning district; and

WHEREAS, the applicant proposes the erection of 3 three story, three family dwellings, one on each tax lot; the three dwellings will be attached; and

WHEREAS, Z.R. §73-52 provides that when a zoning lot, in single ownership as of 1961, is divided by district boundaries in which two or more uses are permitted, the Board may permit a use which is permitted in the district in which more than 50 percent of the lot area of the zoning lot is located to extend not more than 25 feet into the remaining portion of the zoning lot where such use is not permitted, provided: (a) that, without any such extension, it would not be economically feasible to use or develop the remaining portion of the zoning lot for a permitted use; and (b) that such extension will not; and

WHEREAS, the applicant has provided sufficient evidence showing that the zoning lot was in common ownership prior to 1961 and continuously from that time onward; and

WHEREAS, the applicant represents that without the extension of the R7-2 zoning district provisions into the tax lot within the M1-1 zoning district (tax lot 64), this tax lot would not be feasible to develop with a conforming use; and

WHEREAS, the Board notes that it would not be feasible to develop tax lot 64 with a conforming M1-1 use on such a small parcel of land, and in close proximity to conforming residential buildings; and

WHEREAS, the applicant represents that tax lot 64 will be developed in accordance with the uses currently in the surrounding area; and

WHEREAS, the Board finds that the surrounding area is best characterized as mixed use, with multiple dwellings adjoining the zoning lot, and across the street, and with some warehouse uses and a public school in the immediate vicinity; and

WHEREAS, the Board notes that the grant of the special permit would allow the entire zoning lot to be developed for residential use, which would add to the mixed-use character of the neighborhood; and

WHEREAS, the Board finds that the proposed extension will not cause impairment of the essential character or the future use or development of the surrounding area and

WHEREAS, the proposed project will not interfere with any pending public improvement project;

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and

WHEREAS, the Board finds that, under the conditions and safeguards imposed, any hazard or disadvantage to the community at large due to the proposed special permit use are outweighed by the advantages to be derived by the community; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. §§73-52 and 73-03; and

WHEREAS, the applicant has answered to the Board's satisfaction its concerns regarding the applicability of Z.R. §23-711(c), which regulates the minimum distance between buildings on a single zoning lot; and

WHEREAS, the Board notes that any development on the subject zoning lot must conform to all applicable R7-2 zoning district regulations and other zoning and Building Code requirements, as determined and approved by the Department of Buildings; 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 and grants a variation in the application of the Zoning Resolution, limited to the objections cited, to permit the proposed residential development of an entire zoning lot with 3 three story, three family attached dwellings, on a vacant lot divided by an R7-2 and M1-1 district boundary, which is contrary to Z.R. §43-10 and which requires a special permit to allow the extension of the residential use to a 25 foot portion of the lot within the M1-1 zoning district; *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 July 9, 2003"-(1) sheet and "March 25, 2004"-(10) sheets; and *on further condition*:

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 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, March 30, 2004.

**A true copy of resolution adopted by the Board of Standards and Appeals, March 30, 2004.**  
**Printed in Bulletin No. 15, Vol. 89.**

**Copies Sent**  
**To Applicant**  
**Fire Com'r.**  
**Borough Com'r.**