

**Community Board 1
DECEMBER 18, 2012,**

Mr. Vinicio Donato, Chairperson of Community Board 1, commenced at 7:00 p.m.

Mr. Jerry Walsh, past President the Dutch Kills Civic Assn (DKCA), thanked the Board for their support for the last 10 years he has served. He then introduced the new President Mr. Dominic Stiller who stated that was nice to meet everyone and that he looks forward to working with the Board.

Mr. Donato went on to the first public hearing item from the Board of Standards and Appeals (BSA). Mr. John Carusone, Chair of the Zoning and Variance Committee, read item #315-12-BZ – Premises 23-25 31 Street. An application to permit a reduction, within a C4-3 zoning district, of the 30 ft. rear yard requirement to 20 ft. and legalize a non-compliant condition for a proposed 8-story community facility and commercial building currently under construction. Mr. Steven Sinacori, lawyer, stated that he and Mr. George Murgurculis, real estate attorney, were representing the applicant, they are requesting a special permit for the proposed application for non-compliant condition for a proposed eight-story community facility and commercial building currently under construction at 23-25 31st Street in a C4-3 zoning district. The permit will permit a 30' rear yard instead of a 20' rear yard requirement and legalize the non-compliant condition for the proposed 8-story building currently under construction. When completed the building will be occupied by 26 physicians with approximately support staff and create new jobs within the neighborhood. This medical building will provide local medical services for the neighborhood. He reviewed the location and zoning for the area prior to the rezoning and after the rezoning 5/25/2010 during the construction of the project. The rezoning changed their rear yard compliance from 20' to 30'. They spent over 6 million dollars since the inception of the project prior to the rezoning. He stated that the previous architect designed the building with a 20' rear yard prior to the rezoning and presented illustrations to the Board. Mr. Calvin Wong, lawyer, reviewed the location of the building and demonstrated that it will stay within context with the rest of the block. He stated again, that the only portion of the building that is affected by the zoning change is the rear yard. Mr. Sinacori stated that the new restriction would require them to demolish the rear 10' portion of the building and a complete redesign and reconstruction of the building structure system which would be infeasible to be in compliance with new rezoning. This would be difficult with the current placement of the beams and would be extremely difficult. He further explained the complications of bringing the building into compliance and asked for the Board's support for the special permit. He went on to mention that there was some damage that the construction did to the surrounding buildings. Mr. George Murgurculis explained to the Board what happened since the inception of the construction and he has visited numerous neighbors surrounding the site who had complaints of damages. He wanted the Board to know that they have been diligent to work with the neighbors. In trying to do so, he has explained there are 4 construction companies that all have coverage of this site. The problem is that the insurance companies are pointing fingers to the other company and saying they are responsible for the claims. He stated the he also spoke with counsel and stated that this is going to take time to sort out the liability, but they will be compensated. They even offered to do the repairs at their own expense to expedite claims without the help of the insurance companies and have sought to get repairs done for their neighbors outside of the insurance companies. They have done everything that they can to get the repairs done. Mr. Donato asked if there was anyone on the Board who had a question for applicant. Mr. John Katsanos asked if they would be willing to assist in repairing or even rebuild the residential homes that were damaged by the construction. Mr. Sinacori stated that they do not have the resources to rebuild a whole house. Mr. Carusone asked at what point when you were aware of the problem with the rear yard and how far along was the building completed. Did you stop when the problem was discovered and was the area completed? Mr. Murgurculis stated that all work stopped in the area when they found out that they were non compliant. They were notified after an audit of the project after the super-structure, water tower, and fire structure were up. Mr. Carusone asked why they were asking for special permit instead of a variance. Mr. Wong stated that the special permit is for areas of zoning that are contemplated, in appropriate cases, under discretionary measures will grant a waiver for uses that are reasonable. In this case, this fall under the BSA, and this is a zoning issue and the BSA will be looking at your decision base on the zoning issue of 30' rear yard or a 20' rear yard. Mr. Carusone asked if the rest of the building is in compliance and that the only issue is the rear yard non compliance. Mr. Wong stated that the building is in compliance except for the rear yard. Mr. Donato asked if there was anyone on the Board who had any questions for the applicant. Ms. McDonald asked if the 5 engineers and adjusters are from the insurance companies. Mr. Murgurculis stated that one engineer report came from one of the owners of the property and four reports came from the adjusters from the insurance companies. Ms. McDonald asked if they had access to the

report and if they have seen the report that was published by ABC News. Mr. Wong stated that they only had access to one report not the adjuster's reports and yes he has seen the news report. Mr. Donato clarified for the Board that this was an application for special permit for the non compliance of rear yard. The lawsuit is not part of the application and is between the people that are suing and the owners of the building. Please keep in mind what is being voted on tonight. Ms. Evie Hantzopoulos asked why the original architect was fired. Mr. Wong stated that the original architect who designed the building was dismissed upon notification that there was an error in late September/October. Mr. Meloni asked him to clarify that the original plans were approved by DOB and that there was an audit and the plans were rescinded. Mr. Wong stated that the original plans were approved by DOB and after receiving a stop work order due to damages to neighboring buildings an audit was done resulting in the non-compliance of the rear yard. There was further discussion on what could be built on the site under the zoning changes. Mr. Carusone stated that they most likely incurred violations and if so were the violations address and corrected. Mr. the owner states almost all violations have been resolved except for the rear yard. Mr. Katsanos asked if the owner would be willing to assist in resolving the damages incurred by the neighboring buildings. Mr. Sinacori stated that they have offered to resolve the damages. Mr. George Stamatiades asked if the 20' requirement is under the old zoning and was the foundation in at the time of the old zoning. Mr. Sinacori stated the requirement was under the old zoning and they did not complete the foundation, but they did have the underpinning and some foundation work done this why they are requesting the special permit. Mr. Donato asked if there was anyone in the audience who wanted to speak for or against the application. Mr. Robert Dragi, neighbor, stated that his home has to be torn done from the damages sustained from the construction and the issues have not been addressed. Mr. Donato asked if he was in favor of the application. Mr. Dragi stated that he is not in favor of the application. He added that they plan to put air compressor in the set back area at 23' which is at the same level of their bedrooms. Mr. Donato asked if the group that he is representing would vote against this application and if they would do a show of hands. Mr. Dragi stated that they would be against the application. Ms. Helen Scala, owner of the dance school abutting the new building on 31st St., stated that her work space has suffered severe damages from the construction and she is unable to use it any longer. The City engineer came out to evaluate the damage and confirmed that it was caused by the construction. She cannot conduct business with the damages. Mr. Donato asked if she was in favor of the application. Ms. Scala replied "No". Mr. Andrew Latos, Attorney, stated that he is for the application because the facility will be offering a service that cannot be duplicated. Mr. Paul Ajiello, resident, stated that he is favor of the application because it will afford the physicians to provide great care to the residents in the area. They will also provide a great service to the community by being close by. Mr. Christopher Kasakis, lawyer, stated that he has a wide range of people who come through his office who state that they do not have enough resources of medical availability in the area. To say that there is not enough parking or that the area is becoming an attraction, this is a problem that has existed for a number of years. The project should not be down because of the damage issues. In all things there is a process that everyone must go through which will require that everyone to follow to resolve the issues. He is in favor of the application. Ms. Helen Manakis, resident, stated that she is in favor of the application because it is the only facility that is close by that will provide medical care. You don't need a train, bus or car because of its location. Mr. Harry Harris, resident, stated he believes that there are a lot of good reasons to have the facility open up. However, he thinks that it is hard to think of the good when your home is damaged. He is not in favor of the application. Ms. Maria Baja, resident, stated that she is not in favor of the application. This is her first home and they have put so much into this home. The damages have caused so many problems and now their home has to be demolished. No one came to them to help or assist with their issues. Mr. Donato asked the audience for a show of hands, those in favor and opposed. Mr. Thomas Gill, resident, stated that he submitted a memorandum to the Board early in the day and to Peter Vallone stating specific facts that he doesn't think the Board understand what these people have been going through. Mr. Donato asked him why he would make that assumption. The Board will make a vote on the facts that are presented. There is a lack of balance. The applicant submitted a request for variance based on the original plans and given specifics to follow and they overbuilt. He stated that there is a cinder block wall where he had a view and now the damage is done. What is there now is not pleasant to look at. He is against the application. The area needs a medical facility but it could have been done on less property. Mr. Donato asked from the people who like to see this go through, how many of them live in the neighborhood that this facility is going up. He then asked those who are against the application. Many stated that they live right next to the facility. Mr. John (illegible), resident, stated that he is against the application even though there is a need for a medical center. He asked what would happen to his home if this is erected. This is our homes, our bedrooms and it is our lives. He asked, when will this stop? Mr. Donato reviewed the process that the application will have to go through and informed them that they can follow the status of the application as it goes

through the process and even attend the various stages. Mr. Billy Velleras, resident stated the question is if we are for or against the application. If we are against it the building will still be there and add to the top of it and if they need to take down the 10' the deconstruction of it will cause further damage. He stated that he feels for all those involved. The reason for the approval is it is environmentally unfriendly to reconstruct this building. He is in favor of the application. Mr. Dragi, stated that he keeps hearing that the DOB approved the plans, but this is not true. Architects in good standing are allowed to submit plans that don't get approved by the DOB directly by the Board of Examiners. This was never inspected by the plan examiners. Mr. Carusone stated that information is not true and the only issue is the 10' rear yard that is non-compliant. Mr. Yanni Constantine, owner, stated that the rear yard is legal up to 20' the only thing in question is the set back which starts 25' above ground. The foundation is legal as per the zoning and approved by the buildings department. Mr. Carusone confirmed that they are able to build up to the property line before it was changed. No further discussion. Item closed.

Mr. Ed Babor, Chair of the Consumer Affairs Committee, read the next item from the Department of Consumer Affairs (DCA) #1449948 – Premises 38-04 Broadway (Raven's Head Public House). An application to establish and Unenclosed Sidewalk Café with 4 tables and 8 seats. Mr. Michael Lurke and Mr. John Gargen, owners, stated that they are applying for a sidewalk café with 4 tables and 8 seats. Mr. Babor asked what are the hours of operation and if they will have live music. Mr. Lurke stated that they are open 7 days a week, Monday to Thursday 11am to 12pm and Friday to Sunday from 11 am to 4 am. There will be a DJ on Friday and Saturday, the other nights there will be music from mp3. Mr. Babor asked if there were any residents above. Mr. Lurke stated that there are no residents above and the 2nd floor is for private parties. There is a 1 story next door with no residents above. Mr. Donato asked if there was anyone on the Board who had questions for the applicant. Ms. France McDonald asked if they own the building. Mr. Lurke stated that they lease the building. Mr. Donato asked if there was anyone in the audience who wanted to speak for or against the application. There was no one. Item closed.

He went on to the next item #1451259 – Premises 36-08 30th Avenue. (Antika Pizzeria). An application to establish an Unenclosed Sidewalk Café with 6 tables & 12 seats. Mr. Michael Salvatori stated that the Antika is a family style restaurant and they are open 7 days a week from 11am to 11pm with light background music in the background. There are offices above the restaurant and no residential adjacent to property. Mr. Donato asked if there was anyone on the Board who had a question for the applicant. Ms. McDonald asked if they own the building. Mr. Salvatori replied "Yes". Mr. Donato asked if there was anyone in the audience who wanted to speak for or against the application. There was no one. Item closed.

He went on to the next item #1277928 – Premises 21-37 31st Street. (Wave Thai). An application to renew the license to operate and Unenclosed Sidewalk Café with 7 tables & 14 seats. Mr. Peter Leahy, owner, stated that he has owned the business for 7 years and has had an outdoor café for 6 years. Their hours of operation are weekdays from 11am to 11pm and 11am to 12am on the weekend. There are no residents above or adjacent to the restaurant. Mr. Babor asked if they had any violations since their last renewal. Mr. Leahy replied "No". There was no further discussion. Item closed.

VOTING SESSION:

Mr. Carusone reiterated the public hearing item from the BSA #315-12-BZ – Premises 23-25 31st Street. An application to permit a reduction, within a C4-3 zoning district, of the 30 ft. rear yard requirement to 20 ft. and legalize a non-compliant condition for a proposed 8-story community facility and commercial building currently under construction. He stated that the committee met and recommended approval of the application with the following stipulations 1) Wall at the rear of the property line to be finished with a stucco or a finished that is desirable to the people who live behind, 2) the set back of 23' or across to densely planted with foliage of the entire 120' property line, so it will block the visibility and noise of the A/C units, 3) the owners of the development will make the best effort to settle the claims with the property owners as soon as possible, and 4) the front of the building should be well lit for security reasons. Mr. Katsanos asked to amend the current stipulation as to the owner or contractors of the building should have a duty to mitigate damages through third party contractor that is mutually agreeable to both sides and to the extent if there is any conflict they could use arbitration to resolve the differences, seconded by Ms. Demakos. Mr. Donato stated that one of the resolutions concerning the lawsuit. He stated that you have to understand that the role of the Board is to speak on this issue that is written, nothing that they should come together about a lawsuit or no lawsuit. That is not a proper part of the resolution. We are not here to decide if there is legal ground or no legal ground for them to sue that is up to the people who own the homes and up to the people who construct them.

Our job is only to decide whether we should grant the variance. Mr. Stamatiades suggested that instead of planting foliage, they should put up a type of weave PVC fence to shield the noise and the view on the 23' level. Mr. Carusone stated that the foliage would be rooftop planters at a setback of 10' on the 2nd floor. Mr. Donato asked if this suggestion is accepted as an addition to the stipulations. Mr. Carusone replied "Yes", seconded by Ms. Demakos with amendments. There was no further discussion. Mr. Donato called for a vote. Motion called and carried with 17 in Favor, 9 Against and 1 Abstention for Cause.

Mr. Babor reiterated item from the Department of Consumer Affairs #1449948 – Premises 38-04 Broadway (Raven's Head Public House). An application to establish and Unenclosed Sidewalk Café with 4 tables and 8 seats. Mr. Babor stated that the committee met and recommends approval of the application, seconded by Mr. Pallos. Mr. Donato called for a vote. Motion called and carried.

The next item #1451259 – Premises 36-08 30th Avenue. (Antika Pizzeria). An application to establish an Unenclosed Sidewalk Café with 6 tables & 12 seats. Mr. Babor stated that the committee met and recommends modification of application to 4 tables and 8 seats, owner agreed to the modification, seconded by Ms. Demakos. Mr. Donato called for a vote. Motion called and carried with 1 Against.

The next item #1277928 – Premises 21-37 31st Street. (Wave Thai). An application to renew the license to operate and Unenclosed Sidewalk Café with 7 tables & 14 seats. Mr. Babor stated committee met and recommends approval of the application, seconded by Ms. Nieves-Blas. Mr. Donato called for a vote. Motion called and carried.

GENERAL DISCUSSION:

Mr. Bill Barish stated that the Christmas Tree lighting at Bohemian Hall was a great success.

Ms. Claire Doyle, Green Shores NYC, thanked the Board and stated that the MULCHFEST 2013 will be at the Astoria Park on January 12th and 13th from 10am to 12pm in the parking lot.

Mr. Viola stated that on behalf of the resident of 30th Road, on 12/13/12 they received a letter from Mt. Sinai Hospital stating that they will be installing a 3 level mechanical parking system to increase the parking capacity vertically from 46 cars to 96 cars. They are strongly opposed to this ill advised plan. It will decrease their property values and degrade the area and community. It will increase traffic in the area. It does not fit in with the residential character of the neighborhood. They formally asked that this topic be added to agenda for the Board's January meeting.

BUSINESS SESSION:

Mr. Donato motioned to accept the minutes of November's Board meeting. Motion seconded by Mr. Khuzami. Motion called and carried unanimously

Mr. Donato wished everyone Happy Holidays.

Ms. Lucille Hartmann, District Manager, reported that in everyone's folders there is a flyer from the Central Astoria LDC. They are collecting toys to be given to the organization Hour Children. An organization located in our District that works directly with formally incarcerated women and their children. The program has been very successful and productive with a recidivism rate of less than 4%. She also reported that at the Borough Cabinet meeting the NYC Transit gave an update of the necessary repairs required since hurricane Sandy and noted that there is a silver lining in most matter. The good news is that many of the rats that made their home in the subway were drowned. She wished everyone Happy Holidays and very Happy and Healthy New Year.

There was no further business before the Board; Mr. Carusone motioned to adjourn, seconded by Mr. Babor. Motion called and carried unanimously