

163-13-BZ

CEQR #13-BSA-146Q

APPLICANT – Eric Palatnik, P.C., for 39th Avenue Realty Management, LLC, owner.

SUBJECT – Application May 30, 2013 – Special Permit (§73-44) to allow the reduction of parking spaces for the enlargement of a building containing Use Group 6 professional offices. C4-2 zoning district.

PREMISES AFFECTED – 133-10 39th Avenue, 39th Avenue, east of College Pt. Boulevard, Block 4973, Lot 12, Borough of Queens.

COMMUNITY BOARD #7Q

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez5
Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Queens Borough Commissioner, dated May 24, 2013, acting on Department of Buildings Application No. 420840914, reads in pertinent part:

Accessory parking spaces provided is less than required per ZR 36-21; and

WHEREAS, this is an application under ZR §§ 73-44 and 73-03, to permit, on a site located within a C4-2 zoning district, a reduction in the required number of accessory parking spaces in connection with the enlargement of an existing office building (Use Group 6) from 28.75 spaces to 14.38 spaces, contrary to ZR § 36-21; and

WHEREAS, a public hearing was held on this application on March 4, 2014, after due notice by publication in The City Record, with a continued hearing on April 8, 2014, and then to decision on April 29, 2014; and

WHEREAS, the premises and surrounding area had site and neighborhood examinations by Chair Srinivasan, Commissioner Hinkson, and Commissioner; and

WHEREAS, Community Board 7, Queens, recommends approval of this application; and

WHEREAS, Queens Borough President Helen M. Marshall recommends approval of this application; and

WHEREAS, the subject site is located on the south side of 39th Avenue between College Point Boulevard and Prince Street, within a C4-2 zoning district; and

WHEREAS, the site has 28 feet of frontage along 39th Avenue and 3,740.5 sq. ft. of lot area; and

WHEREAS, the site is occupied by two two-story office buildings (Use Group 6) with a combined floor area of 3,785 sq. ft. (1.01 FAR); and

WHEREAS, pursuant to ZR § 36-21, Use Group 6 is in parking requirement category B1, which requires that one accessory parking space be provided for every 300 sq. ft. of floor area; thus, the existing Use Group 6 floor area at the site generates 12.6 required accessory parking spaces; and

WHEREAS, pursuant to ZR § 36-231, within the subject C4-2 zoning district, because less than 15 parking spaces are required, they need not be provided (and were not, when the subject buildings were constructed in 1992); and

WHEREAS, the applicant now proposes to vertically and horizontally enlarge the buildings and combine them, which will result in an increase in floor area from 3,785 sq. ft. (1.0 FAR) to 8,627 sq. ft. (2.3 FAR) and an increase in the number of required accessory parking spaces from 12.6 parking spaces to 28.75 parking spaces; and

WHEREAS, pursuant to ZR § 73-44, the Board may, in the subject C4-2 zoning district, grant a special permit that would allow a reduction in the number of accessory off-street parking spaces required under the applicable Zoning Resolution provision, for Use Group 6 office use in the parking category B1; in the subject zoning districts, the Board may reduce the required parking from one space per 300 sq. ft. of floor area to one space per 600 sq. ft. of floor area; and

WHEREAS, pursuant to ZR § 36-21 the total number of parking spaces that will be required in connection with the proposal is 28.75 spaces; thus, if the special permit is granted, only 14.38 parking spaces will be required; the applicant notes that because 14.38 is less than 15, it will seek approval from DOB to reduce the number of parking spaces provided at the site to zero, in accordance with ZR § 36-231; and

WHEREAS, the Board takes no position on whether the required parking may be waived entirely and relies on DOB to make such determination; and

WHEREAS, pursuant to ZR § 73-44, the Board must determine that the Use Group 6 use in the B1 parking category is contemplated in good faith; and

WHEREAS, as a demonstration of such good faith, the applicant submitted an affidavit from the owner of the site attesting to its intention to use the site as an office building; indeed, the contemplated renovations are being made to upgrade the facility in order to attract long-term Use Group 6 tenants; and

WHEREAS, the Board finds that the applicant has submitted sufficient evidence of good faith in maintaining the noted uses at the site; and

WHEREAS, in addition, the special permit under ZR § 73-44 requires and the applicant represents that any certificate of occupancy for the building will state that no subsequent certificate of occupancy may be issued if the use is changed to a use listed in parking category B unless additional accessory off-street parking spaces sufficient to meet such requirements are provided on the site or within the permitted off-street radius; and

WHEREAS, at hearing, the Board requested: (1) an analysis of the potential impact of the proposed reduction on the community in terms of available on-street parking; and (2) clearer photographs of the site and the surrounding area; and

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WHEREAS, in response, the applicant submitted a trip generation and parking accumulation analysis and on-street and off-street parking surveys, which together demonstrate that existing parking within one-quarter mile of the site is more than adequate to accommodate the anticipated increase in the demand for parking generated by the proposed enlargement (which the survey concluded would be ten spaces); and

WHEREAS, the applicant also notes that the site is well served by mass transit, in that it is one block from the entrance to the MTA 7 Subway Line, one block from the Flushing Main Street LIRR station, and within walking distance of City buses running along Roosevelt Avenue and Main Street; and

WHEREAS, based upon the above, the Board agrees that the accessory parking space needs of the site can be accommodated even with the parking reduction; and

WHEREAS, in addition, as requested, the applicant submitted photographs of the site and surrounding area; and

WHEREAS, accordingly, 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 is 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 requisite findings pursuant to ZR §§ 73-44 and 73-03; and

WHEREAS, the project is classified as an Unlisted action pursuant to 6 NYCRR, Part 617.2; 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 CEQR No. 13-BSA-146Q, dated May 30, 2013; 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

**A true copy of resolution adopted by the Board of Standards and Appeals, April 29, 2014.
Printed in Bulletin Nos. 16-18, Vol. 99.**

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

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 and Appeals issued a Negative declaration prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 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 §§ 73-44 and 73-03 to permit, on a site located within a C4-2 zoning district, a reduction in the required number of accessory parking spaces in connection with the enlargement of an existing office building (Use Group 6) from 28.75 spaces to 14.38 spaces, contrary to ZR § 36-21; on condition that all work shall substantially conform to drawings as they apply to the objections above noted filed with this application marked "Received April 24, 2014" – (8) sheets, and on further condition:

THAT there will be no change in the use of the site without prior review and approval by the Board;

THAT no certificate of occupancy may be issued if the use is changed to a use listed in parking category B unless additional accessory off-street parking spaces sufficient to meet such requirements are provided on the site or within the permitted off-street radius;

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

THAT DOB will confirm that the 14.38 accessory parking spaces authorized under this grant may be waived, in accordance with ZR §§ 36-31 and 36-231;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s);

THAT the approved plans will be considered approved only for the portions related to the specific relief granted; and

THAT DOB must ensure compliance with all of 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, April 29, 2014.

