

299-13-BZ

CEQR #14-BSA-066R

APPLICANT – Eric Palatnik, P.C., for David Gerstenfeld, owner; Michael Nejat, lessee.

SUBJECT – Application November 1, 2013 – Special Permit (§73-126) to allow the partial legalization and connection of two adjacent ambulatory diagnostic treatment health care facilities (UG4). R3-A zoning district.

PREMISES AFFECTED – 4299 Hylan Boulevard, between Thornycroft Avenue and Winchester Avenue, Block 5292, Lot(s) 37, 39 & 41, Borough of Staten Island.

COMMUNITY BOARD #3SI

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Commissioner Hinkson, Commissioner Ottley-Brown and Commissioner Montanez3

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Department of Buildings (“DOB”), dated October 8, 2013, acting on DOB Application No. 520160218, reads in pertinent part:

Horizontal enlargement to an existing ambulatory diagnostic or treatment health care facility (Use Group 4) located in an R3A zoning district with existing floor area that is in excess of 1,500 sq. ft. is contrary to Section 22-14(A) of the Zoning Resolution; and

WHEREAS, this is an application under ZR §§ 73-126 and 73-03, to permit, on a site within an R3A zoning district, within the Special South Richmond Development District, the combination of two existing ambulatory diagnostic treatment health care facilities (Use Group 4) resulting in 4,047 sq. ft. of floor area, contrary to ZR § 22-14; and

WHEREAS, a public hearing was held on this application on June 10, 2014, after due notice by publication in The City Record, with a continued hearing on July 15, 2014, and then to decision on August 19, 2014; and

WHEREAS, the premises and surrounding area had site and neighborhood examinations by Commissioner Hinkson, Commissioner Montanez, and Commissioner Ottley-Brown; and

WHEREAS, Community Board 3, Staten Island, recommends disapproval of this application; and

WHEREAS, certain members of the surrounding community submitted testimony in support of the application; and

WHEREAS, the subject site is located on the northwest corner of the intersection of Hylan Boulevard and Winchester Avenue, within an R3A zoning district, within the Special South Richmond Development District; and

WHEREAS, the site, which comprises Tax Lots 37, 39, and 41, has 120 feet of frontage along Hylan Boulevard, 104 feet of frontage along Winchester Avenue, and 12,741 sq. ft. of lot area; and

WHEREAS, the applicant states that the site is occupied by three buildings; Lot 37 is occupied by a one-story, single-family home with 948 sq. ft. of floor area; Lot 39 is occupied by a one-story community facility building (medical office) with 2,989 sq. ft. of floor area; Lot 41 is occupied by a two-story mixed residential and community facility building (medical office) with 2,287 sq. ft. of floor area (1,194 sq. ft. of residential floor area and 1,093 sq. ft. of community facility floor area); thus, the site has a total existing floor area of 6,233 sq. ft. (0.49 FAR)(2,142 sq. ft. of residential floor area (0.17 FAR) and 4,081 sq. ft. of community facility floor area (0.32 FAR)); and

WHEREAS, the applicant notes that in 2011, a breezeway was constructed without a permit between the buildings on Lots 39 and 41; and

WHEREAS, the applicant proposes to demolish the 948 sq.-ft. home on Lot 37, remove approximately 397 sq. ft. of floor area from the building on Lot 39, and enclose and extend the existing breezeway, resulting in the introduction of approximately 363 sq. ft. of floor area, for a net decrease in community facility floor area of 34 sq. ft. and a decrease in the total floor area on the lot from 6,233 sq. ft. (0.49 FAR)(2,142 sq. ft. of residential floor area (0.17 FAR) and 4,081 sq. ft. of community facility floor area (0.32 FAR) to 5,242 sq. ft. (0.41 FAR) (1,194 sq. ft. of residential floor area (0.09 FAR) and 4,048 sq. ft. of community facility floor area (0.32 FAR)); and

WHEREAS, the applicant also states that 11 accessory parking spaces will also be provided on the site; and

WHEREAS, the applicant notes that in the subject R3A zoning district, which also within a Lower Density Growth Management Area, an ambulatory diagnostic or treatment facility is limited to 1,500 sq. ft. of floor area, pursuant to ZR § 22-14; however, pursuant to ZR § 73-126, the Board may permit an ambulatory diagnostic or treatment health care facility with maximum floor area of 10,000 sq. ft., provided that: (a) the amount, type, and distribution of open area on the zoning lot are compatible with the character of the neighborhood; (b) the distribution of bulk on the zoning lot will not unduly obstruct access of light and air to adjoining properties or streets; and (c) the scale and placement of the building on the zoning lot relates harmoniously with surrounding buildings; and

WHEREAS, the Board notes that other than the increase in floor area beyond 1,500 sq. ft. authorized by the special permit, the ambulatory diagnostic or treatment health care facility must comply with all

299-13-BZ

CEQR #14-BSA-066R

zoning parameters of the underlying district; and

WHEREAS, the applicant states that, aside from the requested increase in community facility floor area, the proposal complies in all respects with the zoning parameters of the subject R3A zoning district; and

WHEREAS, the applicant also states that the proposed building will have 4,048 sq. ft. (0.41 FAR) of community facility floor area, which is significantly less than the maximum permitted under the special permit (10,000 sq. ft.); and

WHEREAS, turning to the ZR § 73-126 findings, the applicant contends that the proposal's the amount, type, and distribution of open area on the zoning lot are compatible with the character of the neighborhood; and

WHEREAS, the applicant asserts that the site's proposed open area entirely compatible with the character of the neighborhood and will be significantly increased under the proposal, as noted above; and

WHEREAS, as to the distribution of bulk on the zoning lot and its impacts on the light and air of adjoining properties or streets, the applicant contends that the proposal has no impact on adjoining properties, and provides more light and ventilation than the existing condition; and

WHEREAS, the applicant also states that the proposal includes a significant decrease in floor area and the removal of an entire building and a portion of another, which will enhance the light, ventilation, and privacy of the neighboring residences on Lots 31, 32, 33, and 43; and

WHEREAS, as to the harmoniousness of the building with the surrounding buildings in terms of scale and placement on the site, the applicant states that, as noted above, the building complies in all respects with the bulk regulations regarding FAR, height, yards, lot coverage, and parking; the applicant also notes that the perimeter of the site adjoining residences will be landscaped, creating an appropriate buffer between the community facility parking areas and the residential uses; and

WHEREAS, at hearing, the Board directed the applicant to remove a non-complying awning sign and to include a note on the proposed plans that lighting will be directed down and away from adjoining residences; and

WHEREAS, in response, the applicant stated that the awning will be removed entirely; the applicant also submitted amended plans that include the note about lighting; and

WHEREAS, based upon the above, the Board has determined that the evidence in the record supports the requisite findings pursuant to ZR § 73-126; and

WHEREAS, the Board further finds that the subject use will not alter the essential character of the surrounding neighborhood nor will it impair the future

use and development of the surrounding area; and

WHEREAS, the Board also finds that the proposal will not interfere with the renovation of the adjacent fire station, and will otherwise not interfere with any pending public improvement project; 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 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 § 73-03; and

WHEREAS, the project is classified as 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. 14BSA066R, dated October 31, 2013; and

WHEREAS, the EAS documents that the operation of the facility 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 Board has determined that the operation of the facility will not have a significant adverse impact on the environment.

Therefore it is 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 § 6-07(b) of 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 ZR §§ 73-125 and 73-03, to permit, on a site within an R3A zoning district, within the Special South Richmond Development District, the combination of two existing ambulatory diagnostic treatment health care facilities (Use Group 4) resulting in 4,047 sq. ft. of floor area, contrary to ZR § 22-14; *on condition* that all work shall substantially conform to drawings filed with this application marked "Received July 22, 2014" – Eight (8) sheets; and *on further condition*:

THAT the parameters of the building shall be as follows: a maximum total floor area of 5,242 sq. ft. (0.41 FAR), a maximum residential floor area of 1,194 sq. ft. (0.09 FAR), a maximum community facility floor

299-13-BZ

CEQR #14-BSA-066R

area of 4,048 sq. ft. (0.32 FAR), a maximum lot coverage of 22.6 percent, and 11 parking spaces, as reflected on the BSA-approved plans;

THAT the canopy attached to the building will be removed upon commencement of the proposed construction;

THAT all landscaping will be provided and maintained in accordance with the approved plans;

THAT lighting for the parking areas and signage will be in accordance with the approved plans;

THAT substantial construction will be completed in accordance with ZR § 73-70;

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 the 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, August 19, 2014.

A true copy of resolution adopted by the Board of Standards and Appeals, August 19, 2014.

Printed in Bulletin Nos. 32-34, Vol. 99.

Copies Sent

To Applicant

Fire Com'r.

Borough Com'r.

